

February 1, 2021

Amy Love, Town Planner  
Franklin Planning Board  
Town Hall  
355 East Central Street  
Franklin, MA 02038

Re: Subdivision Zoning Compliance Plan – 81-P ANR & Limited Site Plan Supplemental  
200 & 300 Financial Park (the Project)  
431 Washington Street, Franklin, MA

Dear Town Planner:

On behalf of our client, Berkeley Partners, Highpoint submits this letter and accompanying documents in response to comments received from the Planning Board on our petition for Site Plan Review Modification at the Board's October 19, 2020 public hearing. The Board requested that the Applicant provide supplemental plans demonstrating zoning compliance for each of the two lots created through the proposed 81-P/ANR subdivision, and evidence that easements are provided for use and maintenance of access and utilities throughout both properties.

Highpoint has prepared two separate Zoning Conformance Plans, one for each lot, that demonstrates compliance with the applicable dimensional requirements for each property. A review of the Franklin Zoning Bylaw *Sec. 185-21.C.4 Parking, Loading Driveway Requirements* with respect to the existing conditions plan indicates that the tree planting quantities do not currently conform with zoning requirements of one (1) tree for every 10 parking spaces. This non-conforming condition exists prior to subdivision. The Applicant therefore requests a waiver from meeting the tree planting requirement. The Form R application has been revised to include this additional waiver request.

Regarding easement rights to maintain access and utilities, Highpoint has completed additional review of the property deed and referenced joinder and reciprocal easement agreements (REA's). Prior to subdivision, the current owner and other parties within the development are granted easement rights for use and maintenance of utilities and drainage throughout the property. The REA includes specific language that grants the easements in perpetuity to respective parties, with the easements assignable upon sale and transfer of the property. Therefore, upon sale or transfer of either of the two lots the REA will be amended as required to appropriately reference the new properties, together with transferring the grant of easement to each parcel. The original property deed, joinder agreement, and REA are submitted with this letter for the Board's consideration.

Please find enclosed the following items:

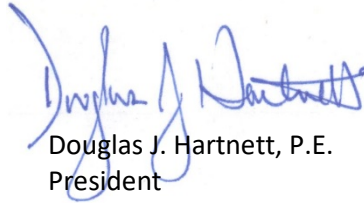
- Zoning Compliance Plan – Lot 5A prepared by Highpoint, dated 02-01-2021
- Zoning Compliance Plan – Lot 5B prepared by Highpoint, dated 02-01-2021
- Quitclaim Deed of existing property
- Reciprocal Easement Agreement
- Joinder to Reciprocal Easement Agreement
- Revised Form R – Subdivision Waiver Request

Please contact the undersigned if you have any questions.

Best regards,  
**HIGHPOINT ENGINEERING, Inc.**



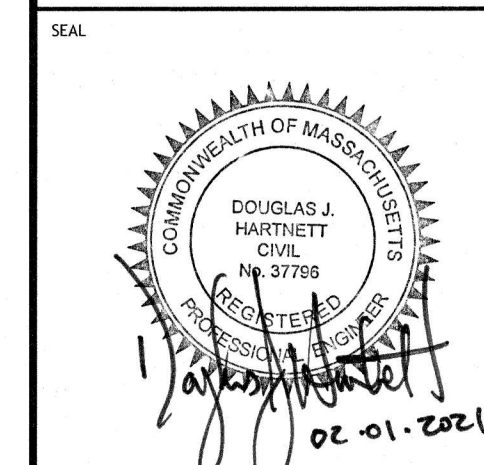
Matthew Mui, E.I.T  
Project Engineer II



Douglas J. Hartnett, P.E.  
President

encl.

cc: Andrew Holmberg, Berkeley Partners



**COMPLIANCE SUMMARY - BUILDING AND SITE DIMENSIONAL REQUIREMENTS**

ZONING DISTRICT: INDUSTRIAL (I)  
 OVERLAY DISTRICT: WATER RESOURCE DISTRICT

CRITERIA	LOT 5A	COMPLIANCE
LOT AREA	40,000 SF / 32.24 AC	YES
FRONTAGE	175 FEET / 260± FEET	YES
FRONT YARD SETBACK	40 FEET / > 500 FEET	YES
SIDE YARD SETBACK	30 FEET / 58.4 FEET'	YES
REAR YARD SETBACK	30 FEET / 50.8 FEET'	YES
MAXIMUM BLDG. HEIGHT	3 STORIES / >3 STORY	YES
WETLAND AREA	---	---
UPLAND AREA	---	1,199,939 SF
IMPERVIOUS COVERAGE <sup>2</sup>	80%	40.8%
BUILDING COVERAGE <sup>3</sup>	70%	15.6%
LOT DEPTH	200 FEET / >200 FEET	YES
LOT WIDTH	157.5 FEET / 308± FEET	YES

NOTES:  
 1. SETBACK MEASURED FROM FUTURE LOT LINE.  
 2. IMPERVIOUS COVERAGE PERCENTAGE IS CALCULATED AS IMPERVIOUS AREA / UPLAND AREA AS DEFINED IN THE FRANKLIN ZONING BY-LAW.  
 3. BUILDING COVERAGE PERCENTAGE IS CALCULATED AS BUILDING AREA / UPLAND AREA.

**PARKING SUMMARY**

EXISTING CONDITIONS	GROSS FLOOR AREA	REQUIRED	PROVIDED
LOT 5A			
EXISTING OFFICE SPACE	180,500± S.F.	722 SPACES	342 SPACES

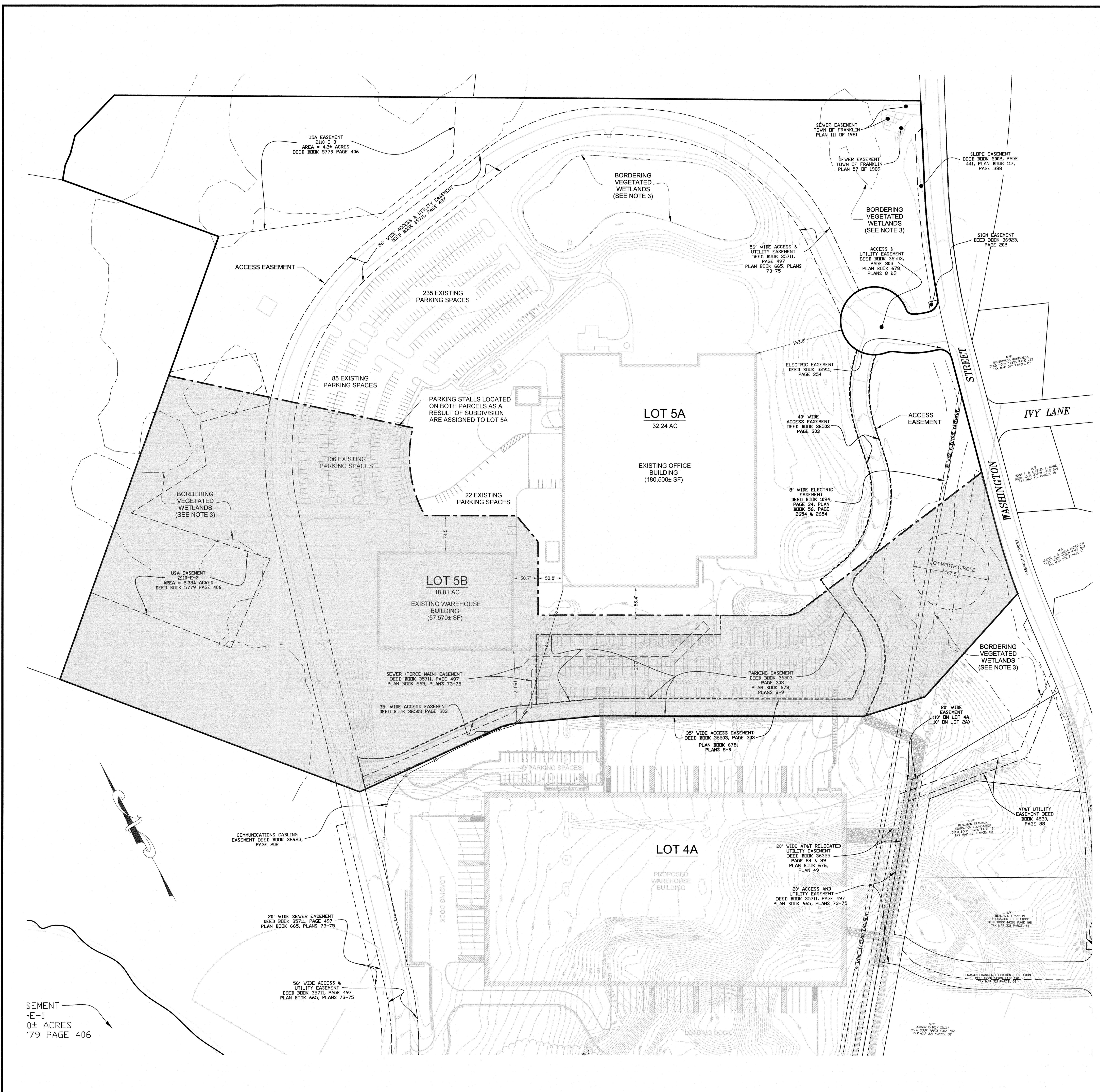
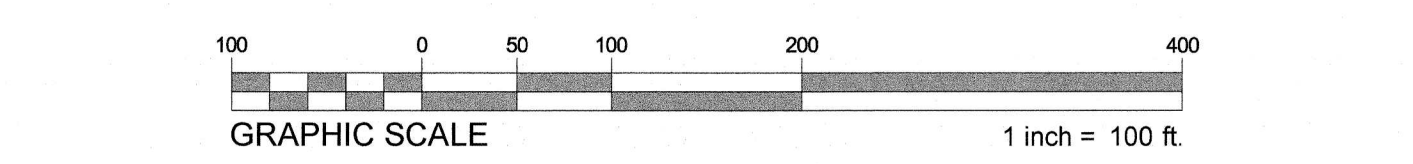
**VEHICULAR PARKING REQUIREMENTS**

DESCRIPTION	CALCULATION
OFFICE SPACE	1 PARKING SPACE PER 250 GFA

- GENERAL NOTES**
- BASE PLAN IS A COMPILED PLAN BASED UPON THE FOLLOWING:  
 - HIGHPOINT ENGINEERING INC. DESIGN PLANS ENTITLED "100 FINANCIAL PARK | WAREHOUSE DEVELOPMENT PLANS - SITE PLANS" DATED MARCH 1ST, 2017.  
 - HANCOCK ASSOCIATES SURVEY PLAN ENTITLED "100 FINANCIAL PARK | WAREHOUSE DEVELOPMENT PLANS - EXISTING CONDITIONS" DATED JULY 13TH, 2020.  
 - HANCOCK ASSOCIATES SURVEY PLAN ENTITLED "ANR PLAN OF LAND - FRANKLIN, MA" DATED OCTOBER 9TH, 2020.
  - LOT DIMENSIONS, WETLAND & UPLAND AREA CALCULATIONS BASED UPON:  
 - HANCOCK ASSOCIATES SURVEY PLAN ENTITLED "ANR PLAN OF LAND - FRANKLIN, MA" DATED OCTOBER 9TH, 2020.
  - WETLAND DELINEATION BASED UPON:  
 - HANCOCK ASSOCIATES SURVEY PLAN ENTITLED "WETLAND LOCATION PLAN IN FRANKLIN, MA" DATED JANUARY 9TH, 2020.
  - EASEMENT INFORMATION BASED UPON:  
 - HANCOCK ASSOCIATES SURVEY PLAN ENTITLED "ANR AND ACCESS AND UTILITY EASEMENT PLAN OF LAND IN FRANKLIN, MA" DATED DECEMBER 1ST, 2017.
  - RECIPROCAL EASEMENT AGREEMENT DATED DECEMBER 27TH, 2017 RECORDED IN BOOK 35711 PAGE 497. SETS FORTH RIGHTS AND EASEMENTS AND THE TERMS AND CONDITIONS THEREOF BINDING PARCELS, OWNERS AND OCCUPANTS, AND LAND WHICH THEY ARE LOCATED AND CONSTITUTES IRREVOCABLE, NONEXCLUSIVE EASEMENTS APPURTENANT TO THE LAND FOR THE BENEFIT OF THE OWNERS, AND, FOR AS LONG AS ANY TENANT LEASE HAS NOT EXPIRED OR TERMINATED, THE TENANT UNDER ANY LEASE.
  - ACCESS, SEWER, WATER, UTILITY AND DRAINAGE EASEMENTS UNDER THE RECIPROCAL EASEMENT AGREEMENT, ARTICLE I - GRANT OF EASEMENTS, ARE PERPETUAL IN NATURE AND FULLY VESTED, GRANTING EACH PARCEL OWNER AND EACH OCCUPANT AND THEIR RESPECTIVE PERMITTEES THE RIGHT TO USE THE OTHER PARCELS AS DEEMED NECESSARY FOR SERVICE, MAINTENANCE AND IMPROVEMENTS.
  - PURSUANT TO THE TERMS OF THE RECIPROCAL EASEMENT AGREEMENT, ARTICLE 7.21 - ADDITIONAL OWNERS - EXISTING OWNERS SHALL HAVE THE AFFIRMATIVE OBLIGATION TO ENFORCE ANY PARTIES OR FUTURE OWNERS TO JOINING THE AGREEMENT AS A CONDITION OF THE SALE OF FUTURE PARCELS.

**SYMBOL LEGEND**

	EXISTING PROPERTY LINE
	PROPOSED FUTURE PROPERTY LINE
	BORDERING VEGETATED WETLANDS
	ACCESS EASEMENT
	PARKING EASEMENT



**100 & 200 FINANCIAL PARK**  
 SUBDIVISION ZONING COMPLIANCE PLAN  
 341 WASHINGTON STREET  
 FRANKLIN, MA  
 OWNER/APPLICANT: BERKELEY PARTNERS

REV. DATE. DESCRIPTION  
 ISSUE TYPE:  
 SUPPLEMENTAL  
 ISSUE DATE:  
 02.01.2020  
 PROJECT NUMBER:  
 19032

DRAWN BY: MKM  
 CHECKED BY: DJH  
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 All Rights Reserved.

**ZONING COMPLIANCE PLAN - LOT 5A**

SHEET NUMBER:  
**ZC-5A**

**COMPLIANCE SUMMARY - BUILDING AND SITE DIMENSIONAL REQUIREMENTS**

ZONING DISTRICT: INDUSTRIAL (I)  
 OVERLAY DISTRICT: WATER RESOURCE DISTRICT

CRITERIA	LOT 5B	COMPLIANCE
LOT AREA	40,000 SF	18.81 AC YES
FRONTAGE	175 FEET	1,218± FEET YES
FRONT YARD SETBACK	40 FEET	183.6 FEET YES
SIDE YARD SETBACK	30 FEET	50.7 FEET' YES
REAR YARD SETBACK	30 FEET	74.5 FEET' YES
MAXIMUM BLDG. HEIGHT	3 STORIES	>3 STORY YES
WETLAND AREA	---	150,057 SF ---
UPLAND AREA	---	669,172 SF ---
IMPERVIOUS COVERAGE <sup>2</sup>	80%	47.0% YES
BUILDING COVERAGE <sup>3</sup>	70%	8.6% YES
LOT DEPTH	200 FEET	>200 FEET YES
LOT WIDTH	157.5 FEET	205± FEET YES

- NOTES:
1. SETBACK MEASURED FROM FUTURE LOT LINE.
  2. IMPERVIOUS COVERAGE PERCENTAGE IS CALCULATED AS IMPERVIOUS AREA / UPLAND AREA AS DEFINED IN THE FRANKLIN ZONING BYLAW.
  3. BUILDING COVERAGE PERCENTAGE IS CALCULATED AS BUILDING AREA / UPLAND AREA.

**PARKING SUMMARY**

	GROSS FLOOR AREA	REQUIRED	PROVIDED
EXISTING CONDITIONS			
LOT 5B			
EXISTING WAREHOUSE SPACE	57,570± S.F.	58 SPACES	106 SPACES

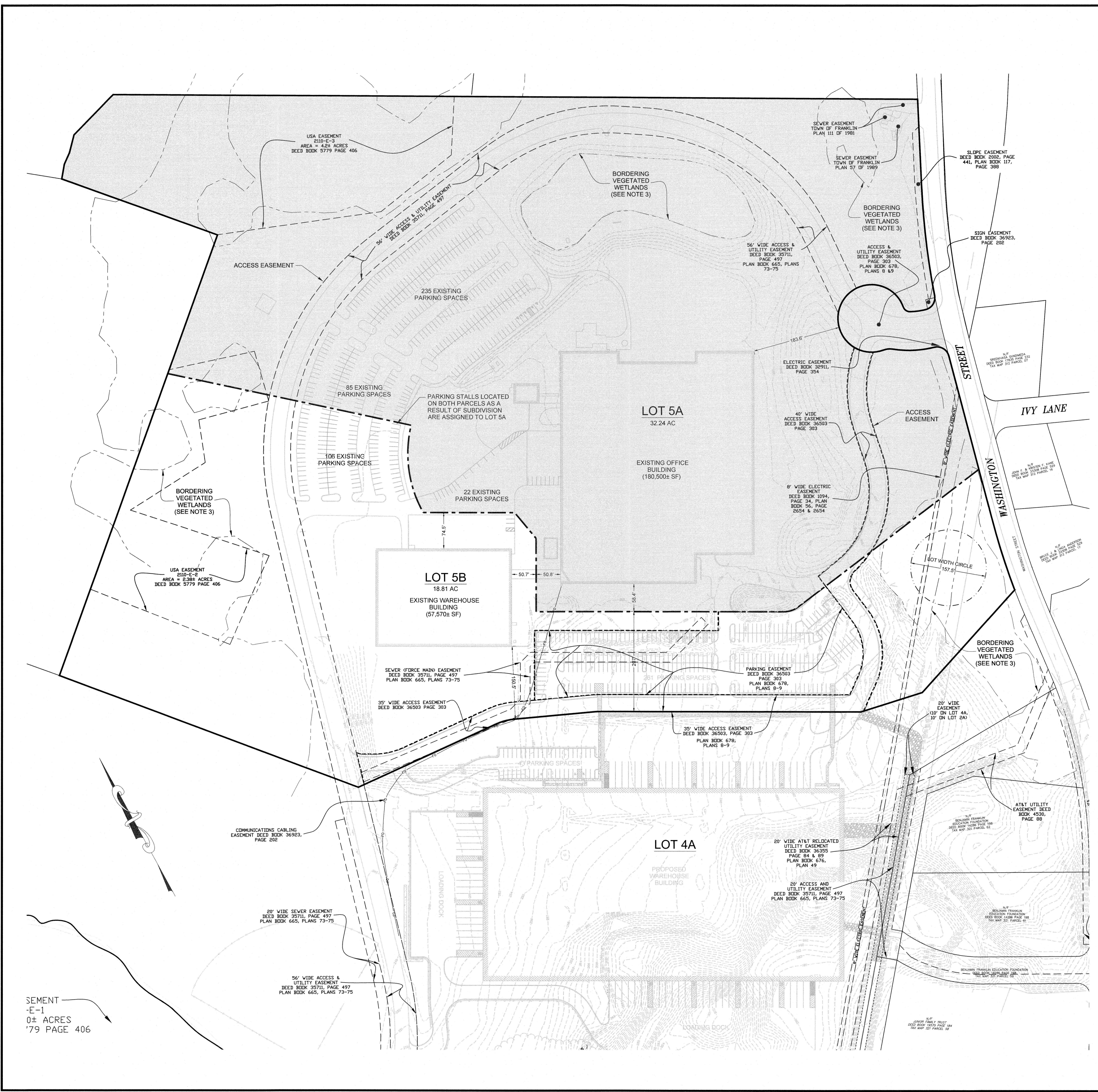
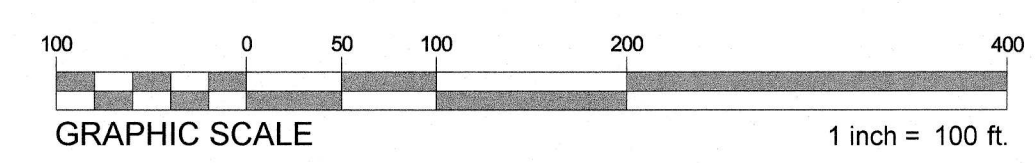
**VEHICULAR PARKING REQUIREMENTS**

DESCRIPTION	CALCULATION
WAREHOUSE	1 PARKING SPACE PER 1,000 GFA

- GENERAL NOTES**
1. BASE PLAN IS A COMPILED PLAN BASED UPON THE FOLLOWING:  
 - HIGHPOINT ENGINEERING INC. DESIGN PLANS ENTITLED "100 FINANCIAL PARK | WAREHOUSE DEVELOPMENT PLANS - SITE PLANS" DATED MARCH 1ST, 2017.  
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  6. ACCESS, SEWER, WATER, UTILITY AND DRAINAGE EASEMENTS UNDER THE RECIPROCAL EASEMENT AGREEMENT, ARTICLE I - GRANT OF EASEMENTS, ARE PERPETUAL IN NATURE AND FULLY VESTED, GRANTING EACH PARCEL OWNER AND EACH OCCUPANT AND THEIR RESPECTIVE PERMITTEES THE RIGHT TO USE THE OTHER PARCELS AS DEEMED NECESSARY FOR SERVICE, MAINTENANCE AND IMPROVEMENTS.
  7. PURSUANT TO THE TERMS OF THE RECIPROCAL EASEMENT AGREEMENT, ARTICLE 7.21 - ADDITIONAL OWNERS - EXISTING OWNERS SHALL HAVE THE AFFIRMATIVE OBLIGATION TO ENFORCE ANY PARTIES OR FUTURE OWNERS TO JOINING THE AGREEMENT AS A CONDITION OF THE SALE OF FUTURE PARCELS.

**SYMBOL LEGEND**

	EXISTING PROPERTY LINE
	PROPOSED FUTURE PROPERTY LINE
	BORDERING VEGETATED WETLANDS
	ACCESS EASEMENT
	PARKING EASEMENT



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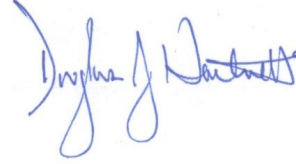
**Form R:  
Franklin Planning Board  
Subdivision Waiver Request**

**Prepared by:** Highpoint Engineering, Inc.

**Signed:**

**Subdivision:** 100 & 200 Financial Park

**Date:** July 3, 2020



**Nature of Waiver:** Modify previous waiver for parking reduction granted under Certificate of Vote - Site Plan dated December 3, 2018 by:

1. Reduced required parking on Lot 5A from 722 spaces to 342 spaces.
2. Waive minimum tree requirement of 1 tree per 10 parking spaces.
3. Allow existing parking spaces to be located greater than 300' of building entrances on Lots 5A & 5B as previously approved.

**Subdivision Rules and Regulation Reference:**

Franklin Zoning By-Law Section 185-21 PARKING, LOADING, DRIVEWAY REQUIREMENTS:  
(A)(4) - REDUCE REQUIRED PARKING.  
Franklin Zoning By-Law Section 185-21 PARKING, LOADING, DRIVEWAY REQUIREMENTS:  
(C)(4) - WAIVE MINIMUM TREE REQUIREMENT.  
Franklin Zoning By-Law Section 185-21 PARKING, LOADING, DRIVEWAY REQUIREMENTS:  
(C)(6) - WAIVE PARKING DISTANCE.

**Reason the waiver is requested:**

Waiver is requested as existing office building use parking demand is significantly lower than what the off-street parking regulations require. The existing waiver granted on December 3, 2018 allows the exclusive use of 261 parking spaces via a parking & access easement for Lot 4A, which is now assigned to Lot 5B.

Waiver is requested for minimum tree requirement of 1 tree per 10 spaces, current tree planting count is non-conforming prior to subdivision.

**Alternatives to granting the waiver:**

Construct additional parking that has no actual demand based upon existing and proposed tenant uses.

Alter existing conditions of the interior landscape areas within parking lot that were previously approved under original site development permit.

**Impact of waiver denial on the project:**

Construction of additional impervious area with associated stormwater improvements & additional trees displaces existing landscape and natural wooded areas when it is not necessary to support existing use of the site.

**Reasons this waiver is in the best interests of the Town and consistent with the intent and purpose of the Subdivision Control Law:**

Granting of waiver reduces impervious area and related stormwater improvements within the Water Resource District, retaining landscape and naturally wooded open space.

CERTIFY

N O T

N O T

*William P. O'Donnell*  
WILLIAM P. O'DONNELL, REGISTER

JOINDER TO RECIPROCAL EASEMENT AGREEMENT

O F F I C I A L O F F I C I A L

C O P Y

C O P Y

This JOINDER TO RECIPROCAL EASEMENT AGREEMENT ("Joinder Agreement") is made as of December 12, 2018 by and among WASHINGTON LOT 1C, LLC, a Massachusetts limited liability company, (the "Washington 1C"), FRANKLIN PROPERTY OWNER, LLC, a Massachusetts limited liability company, ("FPO") and THE BENJAMIN FRANKLIN EDUCATIONAL FOUNDATION, INC., a Massachusetts not for profit corporation ("BFEF").

WITNESSETH:

WHEREAS, FPO and BFEF are parties to that certain Reciprocal Easement Agreement dated December 27, 2017 and recorded in the Norfolk County Registry of Deeds at Book 35711, Page 497 (the "REA").

WHEREAS, Parcel 1 (as defined in the REA) has been divided into those parcels of land identified as (i) Lot 5 on that certain plan entitled "ANR Plan of Land in Franklin, MA" prepared for Franklin Property Owner, LLC by Hancock Associates, dated July 10, 2018, with a Plot Date of July 13, 2018, and recorded in Plan Book 672, Plans 97 and 98 at the Norfolk Registry of Deeds ("Lot 5") and (ii) Lot 4A and Lot 4B on that certain plan entitled "ANR Plan of Land in Franklin MA" prepared by Hancock Associates, dated August 30, 2018 and recorded in Plan Book 675, Page 39 of the Norfolk Registry of Deeds (the "Revised 2018 ANR Plan") ("Lot 4A" and "Lot 4B", respectively).

WHEREAS, Lot 4A has been transferred by FPO to Washington 1C.

WHEREAS, Washington 1C desires to become a party to, and become bound by the terms of, the REA.

WHEREAS, pursuant to the terms of the REA, Washington 1C is required to become a party to the REA.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties agree as follows:

1. Joinder and Assumption of Obligation. Washington 1C acknowledges that it has received and reviewed a copy of the REA and hereby agrees, effective as of the date of this Joinder Agreement, to:

(i) become a party to the REA as evidenced by its signature below; and

(ii) be bound by all agreements and obligations contained in the REA with the same force and effect as if Washington 1C was a signatory to the original REA and was expressly named as a party therein (it being understood and agreed that Washington 1C shall be bound by such agreements only insofar as they are applicable to that portion of Parcel 1 (as defined in the REA) consisting of Lot 4A).

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2. Insurance. Each Parcel Owner shall maintain or cause to be maintained all-risk property insurance in commercially reasonable amounts insuring their respective Parcels. Each Parcel Owner shall procure and maintain at its sole cost and expense (and shall cause any contractor engaged in performing any work to also maintain), general liability insurance for personal injury, death or property damage in an amount no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, and if applicable, worker's compensation insurance and automotive insurance, each in commercially reasonable amounts, and the other Parcel Owners shall be named as additional insureds on the policies set forth in this sentence.

3. Covenants Running with the Land. This Agreement and the rights and obligations provided for herein shall be effective on the Effective Date hereof, shall run with Parcel 2 ( as defined in the REA), Lot 5, Lot 4A and Lot 4B and shall constitute benefits to and burdens upon the property of each party hereto. The agreements provided for herein shall inure to the benefit of, and be binding upon the respective successors, successors-in-title, assigns and tenants of each of the parties and shall remain in full force and effect and shall be unaffected by any change in ownership of the properties, or any of them, by change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. It is the intention of this paragraph that each party hereto shall only have responsibility and liability for the covenants and obligations under this Agreement for the period of time during which such party has an interest in the property subject to this Agreement.

4. Notices. Any notices required under the REA to be given to Washington IC shall be given in accordance with the provisions of Section 10 of the REA, addressed to it at 133 Pearl Street Boston, MA 01028

5. Miscellaneous:

A. This Joinder Agreement may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, all of which together shall constitute one instrument. Delivery of an executed signature page of this Joinder Agreement by email or facsimile transmission will be as effective as delivery of a manually executed counterpart hereof.

B. This Joinder Agreement expresses the entire understanding of the parties with respect to the subject matter hereof. No prior negotiations or discussions shall limit, modify, or otherwise effect the provisions hereof.

C. Any determination that any provision of this Joinder Agreement or any application hereof is invalid, illegal or unenforceable in any respect and in any instance shall not affect the validity, legality or enforceability of such provision in any other instance, or the validity, legality or enforceability of any other provision of this Joinder Agreement.

6. Governing Law. This Joinder Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Massachusetts and all actions

and proceedings arising out of or relating to this Joinder Agreement shall be heard and determined exclusively in the courts of the Commonwealth of Massachusetts.

7. Binding Effect. Except as specifically amended by this Joinder Agreement, all of the terms and conditions of the REA shall remain in full force and effect prior to the date hereof.

{Signature Pages to Follow}

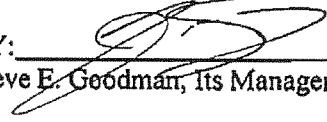


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IN WITNESS WHEREOF, each of the undersigned has caused this Joinder Agreement to be  
duly executed and delivered by its duly authorized officer as of the date first above written.


WASHINGTON LOT 1C, LLC

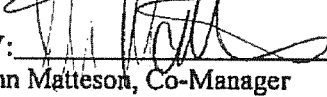
BY:   
Steve E. Goodman, Its Manager

FRANKLIN PROPERTY OWNER, LLC

By: FRANKLIN MYLES HOLDING  
COMPANY, LLC, its Manger

By: 385 MYLES & 431 WASHINGTON  
STREET, LLC, its Manager

BY:   
Steven E. Goodman, Co-Manager

BY:   
John Matteson, Co-Manager

[signature page to Joinder to Reciprocal Easement Agreement]

COMMONWEALTH OF MASSACHUSETTS  
SUFFOLK, SS

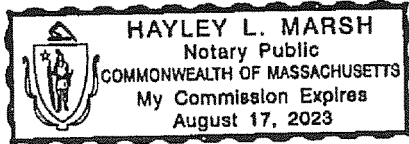
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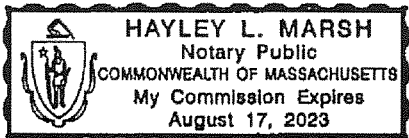
On this 12<sup>th</sup> day of ~~December~~, 2018, before me, the undersigned Notary Public, personally appeared Steven E. Goodman, proved to me through satisfactory evidence of identification, which were personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Manager of Washington Lot 1C, LLC.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public  
My Commission Expires: August 17, 2023

COMMONWEALTH OF MASSACHUSETTS  
SUFFOLK, SS

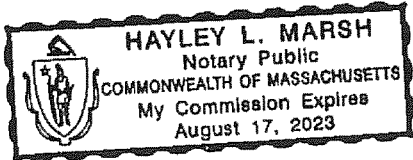
On this 12<sup>th</sup> day of December, 2018, before me, the undersigned Notary Public, personally appeared Steven E. Goodman, proved to me through satisfactory evidence of identification, which were personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Co-Manager of 385 Myles & 431 Washington Street, LLC, as Manager of Franklin Myles Holding Company, LLC, as Manager of Franklin Property Owner, LLC.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public  
My Commission Expires: August 17, 2023

COMMONWEALTH OF MASSACHUSETTS  
SUFFOLK, SS

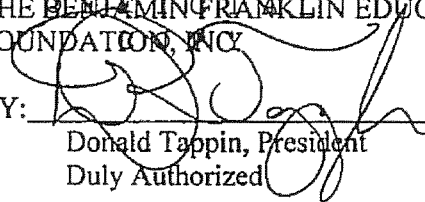
On this 12<sup>th</sup> day of December, 2018, before me, the undersigned Notary Public, personally appeared John Matteson, proved to me through satisfactory evidence of identification, which were personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Co-Manager of 385 Myles & 431 Washington Street, LLC, as Manager of Franklin Myles Holding Company, LLC, as Manager of Franklin Property Owner, LLC.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public  
My Commission Expires: August 17, 2023

NOT  
AN  
OFFICIAL  
COPY

NOT  
AN  
THE BENJAMIN FRANKLIN EDUCATIONAL  
FOUNDATION, INC.

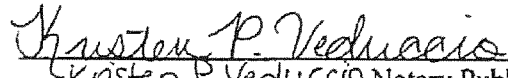
BY:   
Donald Tappin, President  
Duly Authorized

COMMONWEALTH OF MASSACHUSETTS  
Norfolk, SS

On this 19<sup>th</sup> day of October, 2018, before me, the undersigned Notary Public, personally appeared Donald Tappin, proved to me through satisfactory evidence of identification, which was a driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as President of the Benjamin Franklin Educational Foundation, Inc.



KRISTEN P. VEDUCCIO  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires June 7, 2024

  
Kristen P. VEDUCCIO Notary Public  
My Commission Expires: June 7, 2024

N O T                                 N O T  
A N                                     A N  
O F F I C I A L                 O F F I C I A L  
C R E C I P R O C A L E A S E M E N T A G R E E M E N T

THIS EASEMENT AGREEMENT (hereinafter the "Agreement") is made as of this 27<sup>th</sup> day of December, 2017, by and between the Franklin Property Owner, LLC, a Massachusetts limited liability company, and its successors and/or assigns (hereinafter "FPO") with a principal office at 133 Pearl Street, Suite 400, Boston, MA 02110, to the extent applicable and The Benjamin Franklin Educational Foundation Inc., a Massachusetts not for profit corporation, and its successors and/or assigns, (hereinafter "BFEF") with a principal office at 201 Main Street, Franklin, Massachusetts 02038, in relation to the creation of easement rights over certain parcels of land in Franklin, Massachusetts, said easements shown on a plan entitled "ANR and Access and Utility Easement Plan of Land in Franklin, MA, prepared for Franklin Property Owner, LLC & Benjamin Franklin Educational Foundation, Inc. by Hancock Associates, 315 Elm Street, Marlborough, MA, dated December 1, 2017 recorded in Plan Book 665, Page 73 at the Norfolk Registry of Deeds" (hereinafter the "Plan").

WHEREAS, FPO is the owner of certain premises, located and described as Lot 1A on the aforementioned plan (hereinafter "Parcel 1");

WHEREAS, BFEF is the owner of certain premises located and described as Lot 2A and Lot 3 on said plan (hereinafter "Parcel 2");

WHEREAS, pursuant to a lease, Parcel 2 shall be leased to a tenant (hereinafter the "Parcel 2 Tenant"), which shall operate and maintain such land as if it were the land owner, and therefore it is necessary to ensure that the Parcel 2 Tenant will have all the rights, privileges, easements, obligations and remedies of FPO and BFEF as if the Parcel 2 Tenant were the Parcel 2 Owner hereunder; and

WHEREAS, in order to provide for the integrated operation and use of Parcel 1 and Parcel 2, FPO and BFEF desire to provide for certain rights, easements, servitudes, charges, restrictions, and privileges for the benefit of and burden on Parcel 1 and Parcel 2, respectively, all as hereinafter provided;

NOW THEREFORE, in consideration of the performance and payment of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, FPO, for itself, its successors and assigns, and BFEF, for itself, its successors and assigns, agree as follows:

**ARTICLE I**  
**GRANT OF EASEMENTS**

1.1 This Article sets forth the rights and easements and the terms and conditions thereof which shall be binding upon each of the Parcels and the Owners, Occupants and Permittees thereof, and shall run with and bind the land where they are located and shall constitute irrevocable, nonexclusive

easements appurtenant to the land for the benefit of the PPO and BFEF, and, for so long as any tenant lease has not expired or terminated, the Tenant under any lease.

O F F I C I A L O F F I C I A L

1.2 **Definitions.** C O P Y C O P Y

1.2.1 **Donor Agreement.** A particular agreement between the parties established as part of a Land Exchange Agreement.

1.2.2 **In.** As used in this Article, the word "in," in respect of a right or an easement granted "in" a particular Parcel, shall be deemed to mean, as the context may require "in", "to", "on", "along", "over", "through", "upon", "across", and/or "under". As to the easements herein granted:

1.2.2.1 A particular easement in a Parcel shall bind and burden such Parcel which shall, for the purpose of this Article, be deemed to be the burdened estate;

1.2.2.2 The grant of a particular easement in favor of a Parcel shall benefit such Parcel which shall, for the purposes of this Article, be deemed to be the dominant or benefited estate;

1.2.2.3 All rights and easements granted in this Article 1 shall exist by virtue of this Agreement, without the necessity of confirmation by any other documents.

1.2.2.4 All easements hereby granted are, unless expressly limited herein, irrevocable and shall exist in perpetuity unless a shorter term is specified herein.

1.2.3 **Interest Rate.** "Interest Rate" shall mean the rate of 4% *per annum*, simple interest.

1.2.4 **Lease.** "Lease" shall mean that certain Lease Agreement, entered into by and between the Benjamin Franklin Classical Charter Public School, as tenant, and the Parcel 2 Owner, as landlord (as the same may be modified or amended from time to time), notice of which is to be recorded with the Registry immediately prior to the recording hereof.

1.2.5 **Mortgagee.** "Mortgagee" shall mean the holder of a mortgage, deed of trust or other lien securing the payment of indebtedness on either Parcel 1 or Parcel 2 or the holder of a mortgage, assignment or other collateral grant of the Lease made by the Parcel 2 Tenant to secure indebtedness as the context requires, and any successor or assign thereof, provided the Mortgagee has delivered or caused to be delivered a Mortgage Notice to the Parcel Owners and the Parcel 2 Tenant.

1.2.6 **Occupant.** "Occupant" shall mean any person legally entitled to the use and occupancy of any improvement on the Locus, whether a Party or a tenant, subtenant, licensee or concessionaire in the Locus, and shall include, without limitation, the Parcel 2 Tenant.

1.2.7 **Owner.** "Owner" or "Parcel Owner" shall mean the owner (legally or beneficially) of record, at the relevant time, of the fee simple interest in a Parcel or portion of a Parcel.

- 1.2.8 **Parcel.** "Parcel," "Parcel(s)" or "Parcels" means Parcel 1 and/or Parcel 2, as the context may appropriately require.
- 1.2.9 **Parcel 2 Tenant.** "Parcel 2 Tenant" shall mean the tenant under the Parcel 2 Owner Lease and any successors or assigns.
- 1.2.10 **Party.** "Party" and "Parties" means the Owner of Parcel 1, the Owner of Parcel 2 and the Parcel 2 Tenant.
- 1.2.11 **Permittees.** "Permittees" shall mean the officers, directors, shareholders, partners, trustees, members, managers, employees, agents, contractors, subcontractors, customers, patrons, clients, visitors, pedestrians, licensees and invitees of any Parcel Owner, the Parcel 2 Tenant or any Occupant as the context dictates.
- 1.2.12 **Pipes.** "Pipe(s)" as used below shall mean pipe(s), and/or line(s), and/or conduit(s), and or wire(s), and/or cable(s), and/or other means of providing Utility Facilities, as the context may require.

1.3 **Easements.** FPO as owner of Parcel 1, hereby grants to BFEF, for the benefit of Parcel 2, and BFEF as owner of Parcel 2, hereby grants to FPO, for the benefit of Parcel 1, the non-exclusive easements on the granting party's Parcel(s) specified and set forth in this Paragraph 1.3, for use by the Parcel Owners and Occupants and Permittees of each Parcel including the Parcel 2 Tenant, provided that enforcement of the rights granted by the easements shall be solely by the Parcel Owners or the Parcel 2 Tenant, as permitted by this Agreement. The easements granted herein are perpetual in nature, fully vested and validly granted for good and fair consideration, except as expressly set forth in this Agreement. Some are described in words only and others may appear also on the attached plan. No termination, rejection in bankruptcy or other ruling of any court having jurisdiction over this Agreement invalidating all or any portion of this Agreement shall affect, terminate or invalidate the easements granted hereby. The easements being hereby granted and conveyed are as follows:

- 1.3.1 **Access Easements.** FPO hereby grants and conveys to BFEF, an access easement in the entire length of Financial Park, a roadway shown on the Plan, for access to and egress from Parcel 2 by the permittees thereof, including but not limited to easements in the drive lanes and the entrances thereto and exits therefrom for purposes of ingress, egress, passage and delivery, by motor vehicles, (including, but not limited to, passenger vehicles, motor cycles, buses and trucks), pedestrians. Bicycles and otherwise.

BFEF hereby grants and conveys to FPO, a 20' wide utility easement in the portion of Lot 2A running from lot 5A Northerly 340' along the former railroad land and also in the full width of Lot 2A westerly from the west end of Lot 5A" as shown on the Plan, to land of FPO. Said easement shall be for the placement and maintenance of utilities if necessary.

FPO hereby grants and conveys to BFEF, a 20' wide utility easement at the west end of Lot 5A, running from Washington Street to Lot 2A, approximately 380' as shown on the Plan, said easement shall be for the placement and maintenance of utilities if

necessary.  
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1.3.2 **Sewer Easement.** FPO hereby grants and conveys to BFEF a sewer easement in and along Financial Park and also across Parcel 1 as shown on the Plan (the "Sewer Easement"). Said Sewer Easement consists of the right to locate, relocate, erect, construct, reconstruct, install, lay, dig up, operate, maintain, inspect, repair, alter, connect, extend, or remove one or more pipes, fittings and fixtures and other apparatus, pumps, equipment and fixtures (the "Sewer Infrastructure") deemed necessary, convenient or desirable to connect Parcel 2 to the Town of Franklin sewer system, and the right to install a temporary line or lines as or if required for emergency maintenance or service, provided that in each instance the making of repairs or improvements shall be completed and the temporary line or lines removed as soon as practical and shall not unreasonably interfere with the use of the FPO property by the owners thereof; and the right to enter said property for access thereto for all the above purposes. In the event BFEF, in the exercise of any of its rights hereunder disturbs FPO property, BFEF shall be obligated to restore such area to substantially the same condition that it was in prior to such entry at BFEF's sole cost and expense.

BFEF hereby grants and conveys to FPO, an easement to use any and all Sewer Infrastructure in order to connect BFEF to the existing sewer system and the Sewer Infrastructure as required by the Donor Agreement, including the right to relocate the Sewer Easement and Sewer Infrastructure as necessary, provided however, in no event shall FPO unreasonably interrupt or interfere with or cause a termination of any sewer service or connection to BFEF or the Parcel 2 Tenant.

1.3.3 **Water Easement.** FPO hereby grants and conveys to BFEF a water line easement in and along Financial Park, and also across Parcel 1 as shown on the Plan (the "Water Easement") and over such land owned by FPO and connected to water lines that are servicing Parcel 2. Said Water Easement consists of the right to locate, relocate, erect, construct, reconstruct, install, lay, dig up, operate, maintain, inspect, repair, alter, connect, extend, or remove one or more pipes, fittings and fixtures and other apparatus, pumps, equipment and fixtures within the Water Easement (the "Water Infrastructure") deemed necessary, convenient or desirable to provide potable water to Parcel 2, and the right to install a temporary line or lines if required for emergency maintenance or service, provided that in each instance the making of repairs or improvements shall be completed and the temporary line or lines removed as soon as practical and shall not unreasonably interfere with the use of the FPO property by the owners thereof; and the right to enter said property for access thereto for all the above purposes. In the event BFEF, in the exercise of any of its rights hereunder disturbs FPO property, BFEF shall be obligated to restore such area to substantially the same condition that it was in prior to such entry at BFEF's sole cost and expense.

BFEF hereby grants and conveys to FPO, an easement to use any and all Water Infrastructure in order to connect BFEF to the existing water system and the Water

Infrastructure as required by the Donor Agreement, including the right to relocate the Water Easement and Water Infrastructure as necessary, provided however, in no event shall FPO unreasonably interrupt or interfere with or cause a termination of any water service or connection to BFEF or the Parcel 2 Tenant.

- 1.3.4 Access and Utility Easement.** FPO hereby grants and conveys to BFEF a utility easement in and along Financial Park, and also across Parcel 1 as shown on the Plan. (the "Utility Easement"). Said utility easement consists of the right to locate, relocate, erect, construct, reconstruct, install, lay, dig up, operate, maintain, inspect, repair, alter, connect, extend, or remove one or more pipes, conduit, wires, fittings and fixtures and other apparatus, transformers, poles, equipment and fixtures (the "Utility Infrastructure") deemed necessary, convenient or desirable to connect Parcel 2 to utilities such as telephone, cable, electric, and any other utility service, and the right to install a temporary line or lines as if required for emergency maintenance or service, provided that in each instance the making of repairs or improvements shall be completed and the temporary line or lines removed as soon as practical and shall not unreasonably interfere with the use of the FPO property by the owners thereof; and the right to enter said property for access thereto for all the above purposes. In the event BFEF, in the exercise of any of its rights hereunder disturbs FPO property, BFEF shall be obligated to restore such area to substantially the same condition that it was in prior to such entry at BFEF's sole cost and expense.

BFEF hereby grants and conveys to FPO, an easement to use any and all Utility Infrastructure in order to connect BFEF to the existing utilities as required by the Donor Agreement including the right to relocate the Utility Easement and Utility Infrastructure as necessary, provided however, in no event shall FPO unreasonably interrupt or interfere with or cause a termination of any utility service or connection to BFEF or the Parcel 2 Tenant.

- 1.3.5 Drainage Easement.** FPO hereby grants and conveys to BFEF and BFEF hereby grants and conveys to FPO, an easement for the drainage of surface water in each Parcel for the natural runoff of surface water over each Parcel as may be reasonably required for draining of such Parcel. In no event shall either Parcel Owner be permitted to discharge any water onto a parcel using any structures, pipes, or any other storm water management apparatus or create a nuisance on an abutting owner's Parcel without express permission from the affected Parcel Owner.

- 1.3.6 Repair and/or Maintenance.** For the purpose of exercising the rights granted in this Section, each Parcel Owner and each Occupant and their respective Permittees shall have the right to use the other Parcel to such extent and as long as reasonably necessary to accomplish such purposes, subject to the provisions below. The rights of any Parcel Owner to do any work under this Section shall be subject to the following conditions and requirements:

- 1.3.6.1 not less than thirty (30) days prior written notice shall be given to the other Parcel Owner(s) that the Parcel Owner anticipates doing such



work, together with notification of the proposed area of such work, and the anticipated date of start and completion of such work; but if the work involved is emergency repair work, only such advance notice, written or oral, as is reasonably practical, needs to be given;

1.3.6.2 after such work, the elements of the repair in question shall be underground if reasonably practicable and not beneath or unreasonably close to any buildings on the other Parcel other than at points of connection to buildings, said location on the Parcel shall be subject to the affected Parcel Owner's approval which shall not be unreasonably withheld or delayed;

1.3.6.3 promptly after the completion of such work, the Parcel Owner shall, at its own cost and expense, restore the portion of the other Parcel so used or affected to as good condition as the same was in immediately prior to the commencement of such work;

1.3.6.4 the Parcel Owner shall exercise commercially reasonable efforts to minimize interference with use and enjoyment of the other Parcel Owner(s), occupants and their respective permittees of such Parcel; and

1.3.6.5 no work authorized hereby (following completion) shall materially adversely affect any other easement right granted under this Agreement or any other improvements or facilities on the Parcels.

**1.3.7 Easements for Construction.** FPO grants and conveys to BFEF and BFEF grants and conveys to FPO, an easement 10 feet wide along the common boundaries of the each Parcel (except to the extent that any building or other improvement is now or hereafter located within such 10 foot wide area) as shown on the Plan, for access and use by each Parcel Owner in constructing and maintaining the improvements (including landscaping) on its Parcel authorized or required by this Agreement, which shall not include any rights to build on said areas, subject to the following:

1.3.7.1 each Parcel Owner shall first use all reasonable efforts to confine its construction activities to its Parcel;

1.3.7.2 no materials may be stored in the construction easement area defined above;

1.3.7.3 the use of the construction easement may not interfere with the operation of the Parcel 2 Tenant or each Parcel Owner; and

1.3.7.4 the constructing Parcel Owner shall restore all areas it disturbs on the other Parcel Owner's Parcel to as good condition as the same was in

immediately prior to the commencement of such work.

1.3.8 **Easements for Self-Help.** FPO grants and conveys to BFEF and BFEF grants and conveys to FPO, a temporary easement for each Parcel Owner to enter upon the other Parcel for the purpose of performing or enforcing any obligation which the other Parcel Owner is required to perform on the other Parcel, pursuant to the terms of this Agreement, including but not limited to any and all work required by the Donor Agreement. but which such other Parcel Owner fails or refuses to perform or enforce in accordance with the provisions of this Agreement and which the non-defaulting Parcel Owner has the right then so to perform under this Agreement, provided that the defaulting Parcel Owner is first served with notice and allowed the period of time required herein to cure such default or failure. In exercising the easements granted pursuant to this Section, the Parcel Owners shall use reasonable efforts to minimize any interference with or interruption of business conducted on the other Parcel.

1.3.9 **Release and Amendment.** Any of the easements, rights or licenses granted hereby may only be released, extinguished, amended, waived or modified by instrument in recordable form, executed and delivered by each of the Owners with the prior written consent of the Parcel 2 Tenant (provided the Lease has not expired or been terminated) and by any Mortgagees holding Mortgages on Parcel 1 or Parcel 2.

1.3.10 **Covenants Run with the Land.** The covenants, benefits, burdens and other terms of this Agreement are appurtenant to and run with land comprising Parcels 1 and 2 and are binding upon FPO and BFEF and their respective successors and/or assigns.

**ARTICLE 2  
EXCULPATION**

2.1 **Indemnification.** FPO, its successors and/or assigns, shall indemnify and hold harmless, BFEF, its successors and/or assigns, its Parcel 2 Tenant and its mortgagees, and BFEF, its successors and/or assigns, shall indemnify and hold harmless, FPO, its successors and/or assigns and its mortgagees, from claims by any person claiming by, through and under such parties including, but not limited to, tenants, guests, occupants, invitees or any other person claiming any actual loss or damage, arising from personal injury, destruction of property, trespass, and nuisance, based upon or arising from or otherwise related to damages caused by the indemnitor's negligence, willful misconduct or material breach of this Agreement.

2.2 No Party, and no Permittee or other disclosed or undisclosed principal or beneficiary of any Party, and no officers, directors and stockholders of any corporate successor in interest of any Party, and no managers or members of any firm, partnership, limited liability company or joint venture (if any successor in interest be a firm, partnership, limited liability company or joint venture) of any Party, shall be under any personal liability with respect to any of the provisions of this Agreement,

and if any Party is in breach or default with respect to such party's obligations, covenants, agreements, or otherwise under this Agreement, the other Party shall look solely to the interest of the defaulting Party in its Parcel or the Lease, as the case may be, and any condemnation or insurance proceeds, rents, or other proceeds of such Parcel or such Lease for the satisfaction of any monetary obligations which shall include reasonable attorney's fees, of such defaulting Party. It is expressly understood and agreed that each Party's liability hereunder for monetary obligations shall in no event exceed such Party's equity interest in its Parcel or the Lease, as the case may be, and any condemnation or insurance proceeds, rents, or other proceeds of such Parcel or Lease.

2.3 No provision of this Article shall be deemed to excuse any default or other breach under this Agreement on a Party's part, nor shall any right or remedy of any other Party at law, in equity or under this Agreement with respect to such breach or default be thereby otherwise limited or derogated, including, without limitation, the right to injunctive or other equitable relief.

2.4 Notwithstanding anything contained in this Article to the contrary, no provision of this Article shall operate to limit or derogate from each Party's rights or remedies as to funds accruing from any eminent domain proceeding or the proceeds of any insurance (for which each Party shall remain personally liable) nor shall they render one Party liable for the obligations or other liabilities of any other Party to others.

### ARTICLE 3 DEFAULT, SELF-HELP AND OTHER REMEDIES

3.1 **Costs.** Costs to perform an obligation shall be paid by the Parcel Owner obligated to perform or, to the extent permitted by this Agreement, shall be reimbursed in accordance with this Agreement. The owing Parcel Owner shall pay the amount owed within thirty (30) days after receiving a bill, and amounts not paid within the thirty (30) days shall bear simple interest at the Interest Rate defined herein.

3.2 **Rights of Self-Help.** Subject to the obligation of the Parcel Owner or Parcel 2 Tenant, as the case may be, to perform the maintenance obligations as set forth above, if any Parcel Owner (hereinafter the "Defaulting Party") fails to perform any of the provisions, obligations, agreements, covenants or conditions of this Agreement on its part to be performed (including, without limitation, the making of any payment to any other Party which the Defaulting Party has agreed herein to make) at the time and in the manner herein provided for the payment or performance thereof, then the other Parcel Owner or the Parcel 2 Tenant, as the case may be, (hereinafter the "Non-defaulting Party") may give to the Defaulting Party a notice (the "Default Notice") specifying the alleged default. Upon receipt of the Default Notice, the Defaulting Party shall remedy the default, within thirty (30) days after the giving of the Default Notice.

3.3 A Defaulting Party shall be in default ("Default") under this Agreement if, and only if, it shall fail to fully effect such remedial action within such thirty (30) day period. If the Defaulting Party shall commence such remedial action within such thirty (30) day period but shall fail to complete the same within such time for reasons beyond its reasonable control, it shall not be deemed to be in Default under this Agreement as long as it shall continue to use due diligence and continuous efforts to complete such remedial action.

3.4 If a Defaulting Party is in Default under this Agreement, the Non-Defaulting Party may proceed to make payment or take such action including entry onto the Defaulting Party's, as shall be reasonably necessary to remedy or otherwise cure or address the Default for the account of the Defaulting Party. Thereafter, on demand, the Defaulting Party shall reimburse the Non-defaulting Party for the reasonable expenses (including reasonable counsel fees) incurred by the Non-defaulting Party in paying such sum or taking such action, or otherwise addressing such Default, together with all penalty sums reasonably required to be paid by it, if any, arising from the date of such Default, with interest at the Interest Rate.

3.5 At the time the Non-defaulting Party gives notice to the Defaulting Party as aforesaid, it shall also give notice of such Default to all Mortgagee(s) who have requested in writing notices of Default hereunder, and such Mortgagee(s) shall have the right but not the obligation to cure such default within the same period of time granted to the Defaulting Party to so cure.

3.6 **Lien.** Any amount due hereunder from a Defaulting Party to a Non-defaulting Party shall, upon recording of a notice of lien, thereafter be deemed to constitute a lien (the "Default Lien") against the Parcel of the Defaulting Party. The Default Lien shall be subordinate to the lien of any mortgage now or hereafter affecting such Parcel, and any purchaser at any foreclosure or trustee's sale (and any grantee by deed in lieu of foreclosure or trustee's sale) under such mortgage shall take title subject only those Default Liens thereafter accruing pursuant to this Section. In the case of Defaults pursuant to which the Parcel 2 Tenant is or is deemed to be the Defaulting Party hereunder, the lien shall attach to the fee interest of Parcel 2 and, without limiting any rights the Parcel 2 Owner may have under the Lease, the Parcel 2 Owner hereby submits to such lien rights. No lien shall be placed on a non-defaulting Party's Parcel for work performed on a defaulting Party's Parcel.

3.7 The Defaulting Party shall, at the request of the Non-defaulting Party, execute and acknowledge and deliver such instruments as the Non-defaulting Party deems necessary to confirm and record the existence of such Default Lien. Upon failure or refusal of the Defaulting Party to execute and acknowledge any such instrument, the Non-defaulting Party shall have full power of attorney, coupled with an interest, with respect thereto. Upon the satisfaction of such obligations for which a notice of lien was recorded and upon payment by the Defaulting Party of the reasonable costs, including reasonable attorneys' fees and filing fees, of preparing and recording such release, the Non-defaulting Party shall record an appropriate release of such notice of lien which, upon recording, shall be effective to release and discharge such Default Lien.

3.8 **Remedies Cumulative.** Subject to any provision in this Agreement which expressly states that a remedy is exclusive, any remedies herein specifically provided for are cumulative and shall be deemed additional to any and all other remedies to which a Parcel Owner may be entitled hereunder or in law or in equity, and shall include the right to restrain by injunction or preliminary injunction or restraining order any violation or threatened violation by the other Parcel Owner(s) and their Occupants and Permittees of any of the terms, covenants, obligations, agreements or conditions of this Agreement, and by decree to compel performance of any such terms, covenants, obligations, agreements or conditions, it being agreed that the remedy at law for the breach of any such term, covenant, obligation, agreement or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. A Parcel Owner may assess the costs of any suits, proceedings, tests, investigations, borings, experts' fees and expenses and any other costs or fees (including

reasonable attorneys' fees) <sup>N.C.T.</sup> reasonably required to prevent or <sup>N.C.T.</sup> remedy or assess the extent of damage caused by a default against the <sup>A.N.</sup> Defaulting Party or the violating <sup>A.N.</sup> Occupant or Permittee.

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**3.9 Force Majeure.** <sup>C.T.</sup> The Parcel Owners are excused <sup>C.T.</sup> from performing an obligation under this Agreement while delayed or prevented from performing that obligation by a cause not within its reasonable control (excluding financial inability to pay amounts due under this Agreement, but including breach of this Agreement by another Parcel Owner resulting in such delay or prevention), acts of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials, or supplies in the open market (if promptly ordered), failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, and governmental prohibition or delay. To be excused under this Section, a delayed Parcel Owner, as the case may be, shall notify the other Parcel Owner of such delay within five (5) days after the start of the delay and shall use diligent efforts to mitigate the effects of the delay.

**3.10 Non-terminable Agreement.** No breach of the provisions of this Agreement shall entitle any Owner or party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any manner, any other rights or remedies which any party may have hereunder by reason of any breach of the provisions of this Agreement. No breach of the provisions of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value covering any part of the Premises and any improvements thereon.

**3.11 Rights and Remedies of the Parcel 2 Tenant.** During all periods from and after delivery of Parcel 2 to the Parcel 2 Tenant under the Lease until the expiration or earlier termination of the Lease, the Parcel 2 Tenant shall have sole and exclusive right and obligation to (i) enforce the terms, covenants, agreements and obligations of the Parcel 2 Owner (and its Occupants and Permittees) hereunder against the Parcel 1 Owner and the Occupants and Permittees of Parcel 1 on behalf of the Parcel 2 Owner; (ii) to exercise all the remedies for nonperformance or Defaults hereunder against the Parcel 1 Owner and its Occupants and Permittees or other Parties hereto as are afforded the Parcel 2 Owner under this Agreement, at law and in equity (and for all such purposes the Parcel 2 Tenant shall be deemed the Non-defaulting Party under this Agreement; and (iii) to exercise all of the rights of the Parcel 2 Owner including without limitation any right of approval or consent granted by this Agreement or any rights to receive notices or to cure Defaults hereunder and shall have all of the protections afforded the Parcel 2 Owner pursuant to the provisions of this Agreement as if the Parcel 2 Tenant were the Parcel 2 Owner under this Agreement. The Parcel 1 Owner for itself and its Occupants, Permittees, and Mortgagees hereby recognizes such rights of the Parcel 2 Tenant and the Parcel 2 Owner and their Occupants, Permittees and Mortgagees and the successors and assigns of such, and hereby consents and agrees that all obligations, covenants, and agreements of the Parcel 2 Owner hereunder are for the benefit of the Parcel 2 Owner, the Parcel 2 Tenant and their Occupants, Permittees, and Mortgagees. Notwithstanding the foregoing, the Parcel 2 Owner shall receive copies of all notices and correspondence, statements, tax bills, and other documents or notices of any kind delivered or required to be delivered hereunder to the Parcel 2 Tenant, and the Parcel 2 Owner shall have all rights to: obtain estoppel certificates; grant mortgages of its interest in its Parcel and notify the other Parcel Owner of such Mortgagee; and take any actions authorized hereby to protect its interest from liens or other encumbrances. From and after the expiration or earlier termination of the Lease, all right and remedies of the Parcel 2 Owner under this Agreement

shall automatically re-vest in the Parcel 2 Owner. N O T  
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3.12 **Performance by Parcel 2 Tenant.** Except as expressly set forth in Section 7.6 below, the Parcel 1 Owner hereby agrees that the Parcel 2 Tenant has assumed all rights, duties and obligations of the Parcel 2 Owner hereunder, including without limitation the indemnification obligations herein with respect to all matters arising out of or relating to the period from and after delivery of Parcel 2 to the Parcel 2 Tenant under the Lease until the expiration or earlier termination of the Lease regardless of when a claim is brought, and (b) agrees to accept and be subject to all restrictions and limitations applicable to the Parcel 2 Owner forth in this Agreement, and to be subject to all enforcement actions, remedies and rights of, available to, or benefiting the Parcel 2 Owner hereunder, as if the Parcel 2 Tenant were the Parcel 2 Owner for purposes of this Agreement. The Parcel 1 Owner hereby agrees to accept performance of all obligations of the Parcel 2 Owner by the Parcel 2 Tenant as if performed by the Parcel 2 Owner. The Parcel 1 Owner, hereby covenants and agrees to perform all obligations, covenants, indemnifications and agreements of the Parcel 1 Owner hereunder for the benefit of Parcel 2 Tenant as an inducement for the Parcel 2 Tenant to enter into the Lease and agrees to recognize the rights of the Parcel 2 Tenant to directly enforce the obligations, covenants, agreements and indemnifications of the Parcel 2 Owner hereunder. The Parcel 1 Owner hereby agrees to seek enforcement of its rights and remedies with respect to the covenants, agreements and obligations of the Parcel 2 Owner, solely and exclusively against the Parcel 2 Tenant (and for all such purposes the Parcel 2 Tenant and not the Parcel 2 Owner shall be the Defaulting Party under this Article) and hereby releases the Parcel 2 Owner from any claims, losses, costs or damages arising out of any Default in the performance of the Parcel 2 Owner's agreements or obligations hereunder (unless the Default is determined to arise directly out of acts of the Parcel 2 Owner) or other obligations or liabilities of the Parcel 2 Owner which arise or relate to the period from and after delivery of Parcel 2 to the Parcel 2 Tenant under the Lease until the expiration or earlier termination of the Lease, or until such time as it receives written notice from the Parcel 2 Owner that the Lease is no longer in force or effect or that the Parcel 2 Tenant no longer has the rights and obligations of the Parcel 2 Owner under this Agreement. In any instance where this Agreement requires notice to or the consent of the Parcel 2 Owner, such notice or consent as it relates to the Parcel 2 Owner shall not be valid unless it is delivered to or received from the Parcel 2 Tenant. From and after the expiration or earlier termination of the Lease, all duties and obligations of the Parcel 2 Owner which had been assumed by the Parcel 2 Tenant shall be automatically reassumed by the Parcel 2 Owner.

#### ARTICLE 4 NOTICES

4.1 **Notice.** Any notices required or contemplated hereunder shall be sent certified mail, return receipt requested, postage prepaid, delivered in hand, or sent by facsimile or electronic transmission (with confirmation of receipt) as follows:

In the case of the BFEF  
or the Parcel 2 Tenant:

Jocelyn J. Campbell Esq.  
Rudolph Friedmann LLP  
92 State Street  
Boston, MA 02109  
Tel: (617) 723-7700

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In the case of the CFO to: Y

Fax: (617) 248-0287  
Email [jcampbell@nflawyers.com](mailto:jcampbell@nflawyers.com)  
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Fax: 774-206-8210  
[mak@psh.com](mailto:mak@psh.com); [jrp@psh.com](mailto:jrp@psh.com)

4.2 **Mortgage Notices.** Notwithstanding anything to the contrary contained herein, in order to be entitled to written notices hereunder and to the other protections afforded Mortgagees by this Agreement, any Mortgagee must provide or cause to be provided to each Parcel Owner and the Parcel 2 Tenant a written Mortgage Notice setting forth the name, notice address and contact person of such Mortgagee. All Parties shall be entitled to rely upon the most recent such written notice as setting forth the correct identity and address of any Mortgagee.

4.3 **When Effective.** Any notice hereunder shall be deemed to have been received on the delivery date endorsed by the Postal Service on the return receipt, except that any notice which is (according to the terms of this Article) correctly addressed but which is returned by the Postal Service as undeliverable shall be deemed to have been received on the earliest date on which the Postal Service attempted delivery as indicated by Postal Service endorsement on the return receipt form.

**ARTICLE 5  
USE RESTRICTIONS**

5.1 No Parcel or part of a Parcel may be used in violation of any restriction set forth in this Agreement except as expressly provided as an exception to the restriction in this Agreement. In order to insure that Financial Park shall not be overburdened and to preserve the character of the way, it may be used only for its intended purpose and not for any use which is a public or private nuisance.

5.2 **Remedies.** Each Parcel Owner agrees that irreparable harm may be suffered in the event of a violation of the use restrictions in this Agreement or in the event that any such restrictions are violated or are not performed in all material respects by such Parcel Owner and the Parcel 2 Tenant, as applicable. Accordingly, each Parcel Owner and the Parcel 2 Tenant agree that each shall be entitled to an injunction or injunctions to restrain, enjoin and/or prevent breaches or violations, or threatened breaches or violations, of any of the provisions or restrictions contained in this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States (such right being in addition to, and not in lieu of, any other rights, damages and remedies to which a Parcel Owner or the Parcel 2 Tenant is or may be entitled at law or in equity hereunder), in addition to all remedies available under this Agreement, and any other remedy available at law or in equity.

**ARTICLE 6**





Permittees in and to its Parcel and any other areas of the land in which they have rights.

**7.5 No Required Operation.** Nothing contained in this Agreement shall be deemed or construed to contain a Covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business on any Parcel.

**7.6 Environmental.** Each Parcel Owner shall promptly provide written notice to the other of any notices received by such Parcel Owner of any violations of any Environmental Laws with respect to its Parcel. Each Parcel Owner covenants and agrees not to permit the existence, storage, treatment, use, generation, transport, release or discharge of Hazardous Materials on each of their Parcels except in quantities and under conditions permitted by Environmental Laws. Each Parcel Owner covenants and agrees to indemnify, defend (with counsel of the indemnifying party's choice reasonably acceptable to the indemnified party) and hold the other Parcel Owner and its Permittees (and the Parcel 2 Owner's indemnification and hold-harmless obligations shall run to the benefit of Parcel 2 Tenant as if it were the Parcel 2 Owner) harmless from and against any and all liabilities, liens, claims, demands, judgments, damages, penalties, fines costs, losses or expenses (including reasonable attorneys', consultants' and experts' fees and Remediation Costs) that arise as a result of the presence, suspected presence, storage, treatment, use, generation, transport, release, threatened release or discharge of Hazardous Materials (i) from, on or under the indemnifying Parcel Owner's Parcel occurring at any time, past, present or future, except as are determined to be caused by the actions of the other Parcel Owner or its Occupants or their respective Permittees; or (ii) from, on or under the indemnified Parcel Owner's Parcel occurring at any time, past, present or future that are determined to be caused by the acts or omissions of the indemnifying Parcel Owner, or Occupants of the Parcel of the indemnifying Parcel Owner or any of their respective Permittees.

**7.7** For all purposes of the Agreement, the following definitions apply:

**"Environmental Laws"**—all federal, state or local laws regulating the use, storage, generation, transport, discharge and cleanup of hazardous materials and all amendments, reauthorizations and substitutions thereof, and any regulations promulgated in accordance therewith.

**"Hazardous Materials"**—any oil, petroleum, petroleum containing substance, polychlorinated biphenyls, radioactive material, toxic substance, contaminant, pollutant, or other waste, hazardous substances or hazardous material which is defined, determined or identified as hazardous, flammable, harmful, corrosive or toxic under any current Environmental Law or is regulated, restricted or listed under any current or future Environmental Law.

**"Remediation"**—any site investigation, response, remedial, removal, corrective or reconstructive work, action or activity to clean up, detoxify, decontaminate, contain or decrease the concentration of any Hazardous Materials, and any actions to cure, mitigate or clean up any release, threatened release, discharge or spill of Hazardous Materials and any imposition of restrictions on uses that would prohibit the use of any Parcel or any portion thereof or the improvements thereon for retail and other commercial purposes.

**"Remediation Costs"**—All costs, including reasonable attorneys', experts', and consultants' fees, associated with any Remediation.

The provisions of this Section shall survive termination of this Agreement.

**7.8 Performance by Occupant.** A Parcel Owner shall be deemed to have caused an obligation upon it to be performed under any provisions of this Agreement if it requires an Occupant to perform or assume the obligation by written lease, rule, regulation or otherwise, and uses all reasonable efforts to enforce such Occupant's performance of such obligation, and, if such efforts shall fail, thereafter performs said obligation (such Party reserving all rights with respect thereto vis-à-vis the nonperforming Occupant), all within the same period of time which the Parcel Owner is allowed or required by the provisions of this Agreement to perform such obligation. If any such obligation shall be of an emergency nature, such Party shall perform such obligation promptly upon any failure or refusal of such Occupant to perform the same. The performance or assumption by an Occupant of an obligation hereunder shall be subject to all of the terms and conditions set forth in this Agreement.

**7.9** Notwithstanding anything contained herein to the contrary, the Default or breach by any Occupant or Permittee of any provision, agreement, covenant or obligation hereunder shall be deemed, for purposes of this Agreement, to constitute a Default or breach of the Parcel Owner of such Occupant or Permittee.

**7.10 Captions.** The captions of the Articles and Sections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction.

**7.11 No Merger.** Notwithstanding any common ownership of Parcel 1 and Parcel 2 now or at any time hereafter occurring, no merger of the interests impacted by this Agreement shall occur and the Agreement shall continue in full force and effect in accordance with its terms.

**7.12 Governing Law.** This Agreement shall be construed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts.

**7.13 Amendment.** This Agreement may not be altered, modified, amended, renewed, extended or terminated unless by an instrument in writing duly executed, delivered and recorded at the Registry by the parties then bound by this Agreement and consented to in writing by all Mortgagees.

**7.14 Counterparts.** Several copies of this Agreement shall be signed, and each shall be deemed an original.

**7.15 No Gift or Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Premises to the general public or for any public purposes whatsoever, it being the intention of the Parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

**7.16 Covenants Run With the Land.** It is intended that the covenants and agreements, obligations, conditions and terms set forth in this Agreement shall be construed as both covenants and conditions, and that they shall run with the land and be affirmatively enforceable by and against the Parcel Owners, the Parcels and any personal representative, heir, successor and assign thereof, or of an interest therein pursuant to and subject to provisions of this Agreement, (but subject to the provisions of the exculpation clause set forth above), and shall continue to be easements, servitudes,

charges and encumbrances appertaining to and upon, and covenants benefiting, binding and running with, the land, buildings and improvements now or later existing on or within Parcel 1 and Parcel 2.

O F F I C I A L                      O F F I C I A L  
C O P Y                                      C O P Y

**7.17 Approvals.** No Parcel Owner may unreasonably withhold or delay its approval under this Agreement unless this Agreement expressly provides that its approval is discretionary. Unless a different time limit is expressly provided in this Agreement, a Parcel Owner's approval shall be given or withheld within thirty (30) days after it receives the item to be approved, or the item is deemed approved by that Parcel Owner. If a time period shorter than thirty (30) days is provided, the shorter period shall be stated in the request for approval. Failure to state the shorter time period means that a Parcel Owner has thirty (30) days to give or withhold its approval.

**7.18 Title.** This Agreement and the rights and obligations of the Parcel Owners hereunder are superior to all liens and encumbrances on the Premises except those title exceptions listed in herein, but the respective Parcel Owner's rights herein (regarding lien rights) are subordinate to any and all mortgages on any Parcel existing as of the date such lien arises to the extent of funds actually disbursed under any such mortgage. The Parcel Owners represent and warrant to each other that the title exceptions listed herein (if any) do not interfere with or prevent the exercise of the rights and easements granted hereunder, or the performance of the obligations hereunder, and each Parcel Owner agrees, for the benefit of the other, not to enter into any modification of existing leases or new leases which will permit uses that violate the use restrictions referenced in this Agreement and not to permit any such uses that would violate such use restrictions.

**7.19 Estoppel Certificate.** At the request of any other Party, each Party shall certify to any Mortgagee or prospective Mortgagee or Occupant or other interested Person whether, to the certifying Party's knowledge: (i) there is any default under this Agreement (and, if any, describing the default); (ii) this Agreement has been assigned, modified or amended (and if so, describing it); and (iii) this Agreement as of that date is in full force. Such certification waives any claim of the certifying Party based on facts contrary to those asserted in the certificate against any person or entity including the requesting Party to whom the certification was made, and who acted in reasonable reliance on the certificate and without knowledge of the contrary facts.

**7.20 Rights and Obligations of Successors and Assigns.** The rights in this Agreement are appurtenant to each Parcel, and to the leasehold estate created by the Lease, and benefit each Party (and their respective Mortgagees). The obligations in this Agreement are equitable servitudes on and covenants running with each Parcel and with the Lease and bind personally each Person who qualifies as a Party under this Agreement, except as otherwise provided herein.

**7.21 Additional Owners.** In the event that any parties or future owners are added to this Agreement, FPO shall have the affirmative obligation to enforce their joining the Agreement as a condition of the sale of future parcels.

**7.22 Partial Invalidity.** If this Agreement is invalid or unenforceable in part or under certain circumstances, the rest of this Agreement and its application under other circumstances shall be valid and enforceable to the fullest extent permitted by law.

7.23 Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, the Parties hereby agree that they will cooperate with each other to the extent that the Easement(s) created hereby need to be amended or otherwise altered, or to the extent new easement(s) are reasonably requested by either Party hereto, which approvals shall in no event be unreasonable withheld, conditioned or delayed by the other such party.

**(Signature pages to follow.)**

Executed this 27 day of December, 2017.  
NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY  
FRANKLIN PROPERTY OWNER, LLC

By: FRANKLIN MYLES HOLDING COMPANY, LLC, its Manager

By: 385 MYLES & 431 WASHINGTON STREET, LLC, its Manager

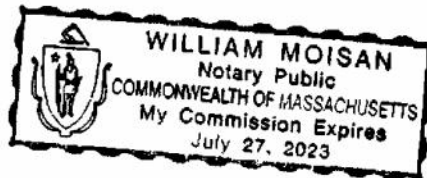
By: [Signature]  
Name: Steven E. Goodman  
Title: Co-Manager

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 27 day of December, 2017, before me, the undersigned notary public, personally appeared Steven E. Goodman, proved to me through satisfactory evidence of identification, which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as co-manager.

[Signature]  
Notary Public  
My Commission Expires: 7/27/23



N O T  
A N  
O F F I C I A L

N O T  
A N  
O F F I C I A L  
C O P Y

Executed this 27 day of December, 2017.

FRANKLIN PROPERTY OWNER, LLC

By: FRANKLIN MYLES HOLDING COMPANY, LLC, its  
Manager

By: 385 MYLES & 431 WASHINGTON STREET, LLC, its  
Manager

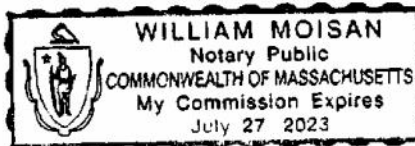
By: [Signature]  
Name: John Matteson  
Title: Co-Manager

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 27 day of December, 2017, before me, the undersigned notary public, personally appeared **John Matteson** proved to me through satisfactory evidence of identification, which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as co-manager.


[Signature]  
Notary Public  
My Commission Expires: 7/27/23



NOT  
AN  
OFFICIAL  
Executed this 19<sup>th</sup> day of ~~December~~, 2017.

NOT  
AN  
OFFICIAL  
COPY

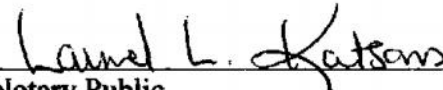
THE BENJAMIN FRANKLIN EDUCATIONAL  
FOUNDATION INC.

BY:   
Name: Donald Tappin  
Title: President

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this 19 day of December, 2017, before me, the undersigned notary public, personally appeared Donald Tappin \_\_\_\_\_ proved to me through satisfactory evidence of identification, which was made, to be the person whose name is signed on the preceding or attached document and acknowledged to me that as President of The Benjamin Franklin Educational Foundation Inc., he signed it voluntarily for its stated purpose.

  
Notary Public  
My commission expires:



LAUREL L. KATSAROS  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires June 20, 2023

10  
431 Washington St. / 100 Financial Park  
Franklin

Bk 36923 Pg 217 #53360  
06-28-2019 @ 11:46a

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA

NOT  
MASSACHUSETTS STATE EXCISE TAX  
Norfolk Registry of Deeds  
Data: 06-28-2019 @ 11:46am  
Ct1#: 740 Doc#: 53360  
Fee: \$80,256.00 Cons: \$17,600,000.00

CERTIFY  
*William P O'Donnell*  
WILLIAM P O'DONNELL, REGISTER

QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS THAT Franklin Property Owner, LLC, a Delaware limited liability company, with an address of 133 Pearl Street, Boston, Massachusetts 02110 ("Grantor"),

for consideration paid and full consideration of [REDACTED] grants to ICBP IV HOLDINGS 34, LLC, a Delaware limited liability company with an address of c/o Berkeley Partners, 1 Sansome Street, Suite 1500, San Francisco, California, ("Grantee")

with QUITCLAIM COVENANTS

The land, together with any improvements thereon, located in the City/Town of Franklin, Norfolk County, Massachusetts, as more particularly described in Exhibit A attached hereto and made a part hereof.

The conveyance is made together with and subject to all recorded easements, conditions, restrictions and agreements and all other matters of record that lawfully apply to the property hereby conveyed.

Grantor has not elected to be treated as a corporation for federal income tax purposes.

Being a portion of the premises conveyed to the Grantor herein by Deed, dated March 5, 2015 and recorded with Norfolk County Registry of Deeds in Book 32948, Page 250.

PREMISES most commonly known as 431 Washington Street, Franklin, Norfolk County, Massachusetts

[Balance of page intentionally left blank]

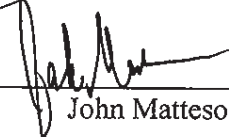


NOT AN IN WITNESS WHEREOF, the Grantor has executed this Quitclaim Deed, under seal as of the 26 day of June, 2019. NOT AN COPY

FRANKLIN PROPERTY OWNER, LLC,  
Delaware limited liability company

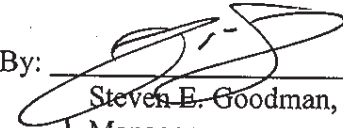
By: 385 MYLES & 431 WASHINGTON STREET,  
LLC, , Manager

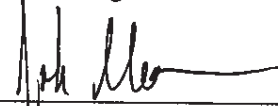
By:   
Steven E. Goodman, Manager

By:   
John Matteson, Manager

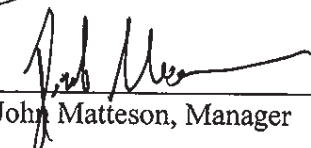
By: FRANKLIN MYLES HOLDING COMPANY,  
LLC; Manager

By: 385 MYLES & 431 WASHINGTON  
STREET, LLC, Its Manager

By:   
Steven E. Goodman,  
Manager

By:   
John Matteson, Manager

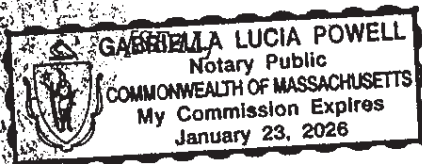
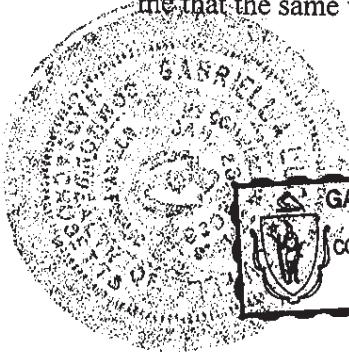
  
Steven E. Goodman, Manager

  
John Matteson, Manager

NOT COMMONWEALTH OF MASSACHUSETTS OFFICIAL COPY

Suffolk, ss.

On this 21 day of June, 2019, personally appeared before me STEVEN E. GOODMAN, as Manager on behalf of 385 MYLES & 431 WASHINGTON STREET, LLC, manager on behalf of FRANKLIN MYLES HOLDING COMPANY, LLC and manager on behalf of FRANKLIN PROPERTY OWNER, LLC, who proved to me through satisfactory evidence of identification, to wit, Steven Goodman, to be the signer of the foregoing document, and acknowledged to me that the same was signed voluntarily for its stated purpose.



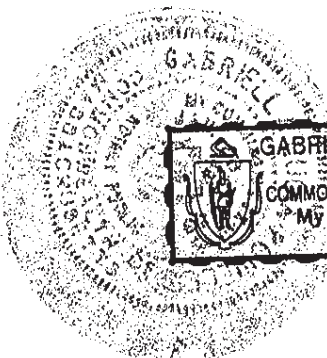
Gabriella Lucia Powell
Notary Public

My Commission expires: January 23, 2026

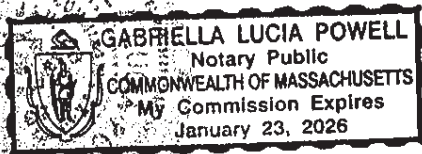
COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 21 day of June, 2019, personally appeared before me JOHN MATTESON, as Manager on behalf of 385 MYLES & 431 WASHINGTON STREET, LLC, manager on behalf of FRANKLIN MYLES HOLDING COMPANY, LLC and manager on behalf of FRANKLIN PROPERTY OWNER, LLC, who proved to me through satisfactory evidence of identification, to wit, John Matteson, to be the signer of the foregoing document, and acknowledged to me that the same was signed voluntarily for its stated purpose.



[SEAL]



Gabriella Lucia Powell
Notary Public

My Commission expires: January 23, 2026

N O T                                    N O T  
A N                                        A N  
O F F I C I A L EXHIBIT A F F I C I A L  
C O P Y (to Franklin Quitclaim Deed) C O P Y

**DESCRIPTION OF LAND**

That certain parcel of land, being a portion of the property conveyed to Franklin Property Owner, LLC by deed of California State Teachers' Retirement System, dated March 5, 2015, as recorded in the Norfolk County Registry of Deeds in Book 32948, Page 250, and more particularly shown as "Lot 5" and the fee in and to area shown in Detail "E" on plan entitled "ANR Plan of Land in Franklin, MA, #100 Financial Park, Franklin, Massachusetts" prepared for Franklin Property Owners, LLC, by Hancock Associates as recorded in the Norfolk County Registry of Deeds in Plan Book 672, Page 97 of 2018.

Subject to and together with the benefit of the following easements:

- A. Easements set forth in Deed recorded in Book 5878, Page 135; and
- B. Utility easements set forth in that certain Reciprocal Easement Agreement, dated December 27, 2017 and recorded in Book 35711, Page 497, as affected by a Consent and Subordination, dated December 12, 2018 and recorded in Book 326701, Page 509, as further affected by a Joinder, dated December 12, 2018, and recorded in Book 36503, Page 315.



## **FRANKLIN PLANNING & COMMUNITY**

### **DEVELOPMENT**

355 EAST CENTRAL STREET, ROOM 120

FRANKLIN, MA 02038-1352

TELEPHONE: 508-520-4907

### **MEMORANDUM**

**DATE:** February 3, 2021  
**TO:** Franklin Planning Board  
**FROM:** Department of Planning and Community Development  
**RE:** 100 Financial Way  
81-P ANR and Limited Site Plan

---

The DPCD has reviewed the above referenced 81-P ANR and Limited Site Plan application for the Monday, February 8, 2021, Planning Board meeting and offers the following commentary:

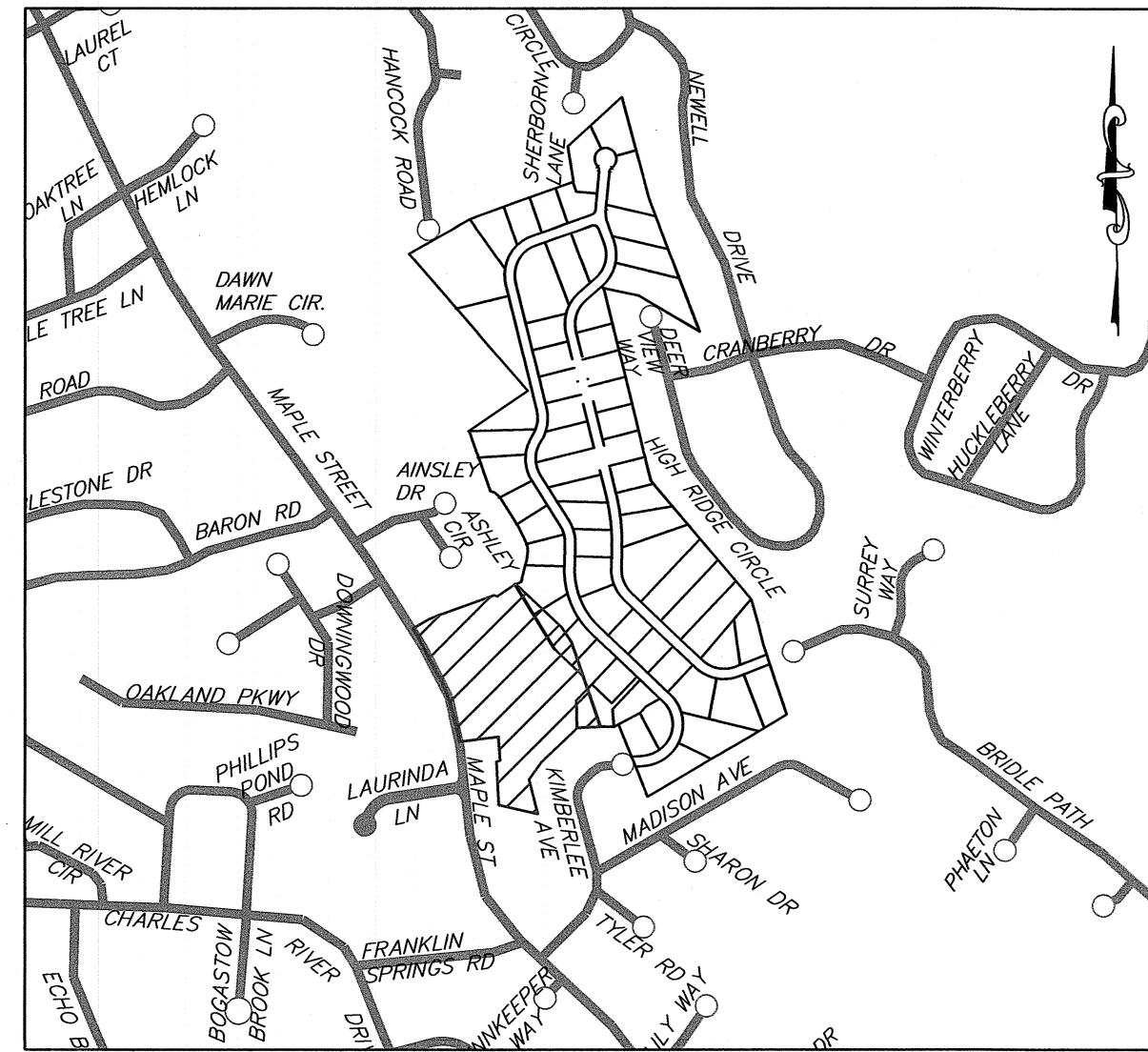
#### **General:**

1. The site is located at 100 Financial Way and currently has 3 existing buildings.
2. Applicant has filed a Limited Site Plan to define the amount of the parking spaces for each building.
3. The 81-P ANR plan is to divide the parcel into additional conforming lots.
4. The Applicant is proposing to allow reduced required parking spaces for lot 5A from 722 spaces to 342 spaces and allow parking spaces greater than 300' from the building for Lots 5A & 5B.

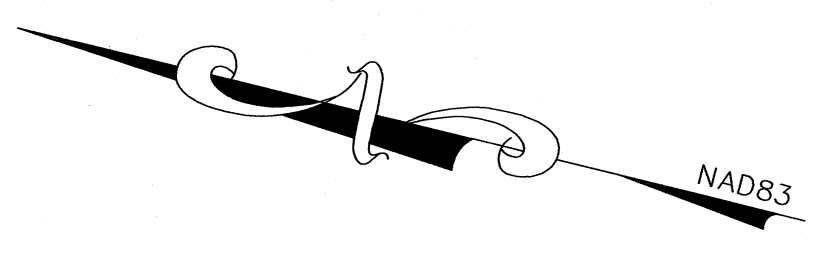
#### **Comments:**

1. Applicant has provided a cover letter with the supporting material on deed easements for each lot.
2. Applicant has requested a parking waiver and allow for spaces to be over 300' from the building.

DPCD has not further comments.



SCALE: 1"=1,000'



APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

DATE: \_\_\_\_\_

FRANKLIN PLANNING BOARD

PLANNING BOARD ENDORSEMENT IS NOT A DETERMINATION AS TO CONFORMANCE WITH THE ZONING BYLAW

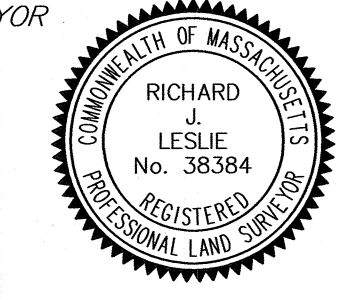
PARCELS A & B ARE NON-BUILDABLE / NON-CONFORMING PARCELS. THEY ARE TO BE COMBINED WITH ADJUTING LAND OWNED NOW OR FORMERLY BY THE FRANKLIN LABASTIE FAMILY, LLC, DEPICTED ON ASSESSOR'S MAP 234 AS PARCEL 012, FOR THE FUTURE DESIGN AND DEVELOPMENT OF THE MAPLE HILL SUBDIVISION.

THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET REGISTRY OF DEEDS AND/OR MUNICIPAL REQUIREMENTS AND ARE NOT A CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN, OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT ASSESSORS RECORDS.

I CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

1/22/2021 DATE

PROFESSIONAL LAND SURVEYOR



( REGISTRY )

PROJECT:  
**469 Maple Street**

**Franklin  
Massachusetts**

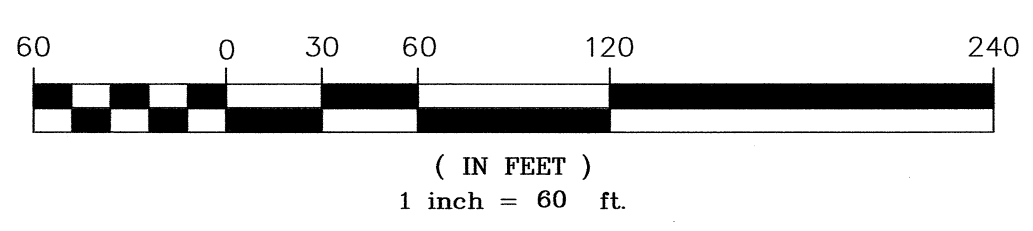
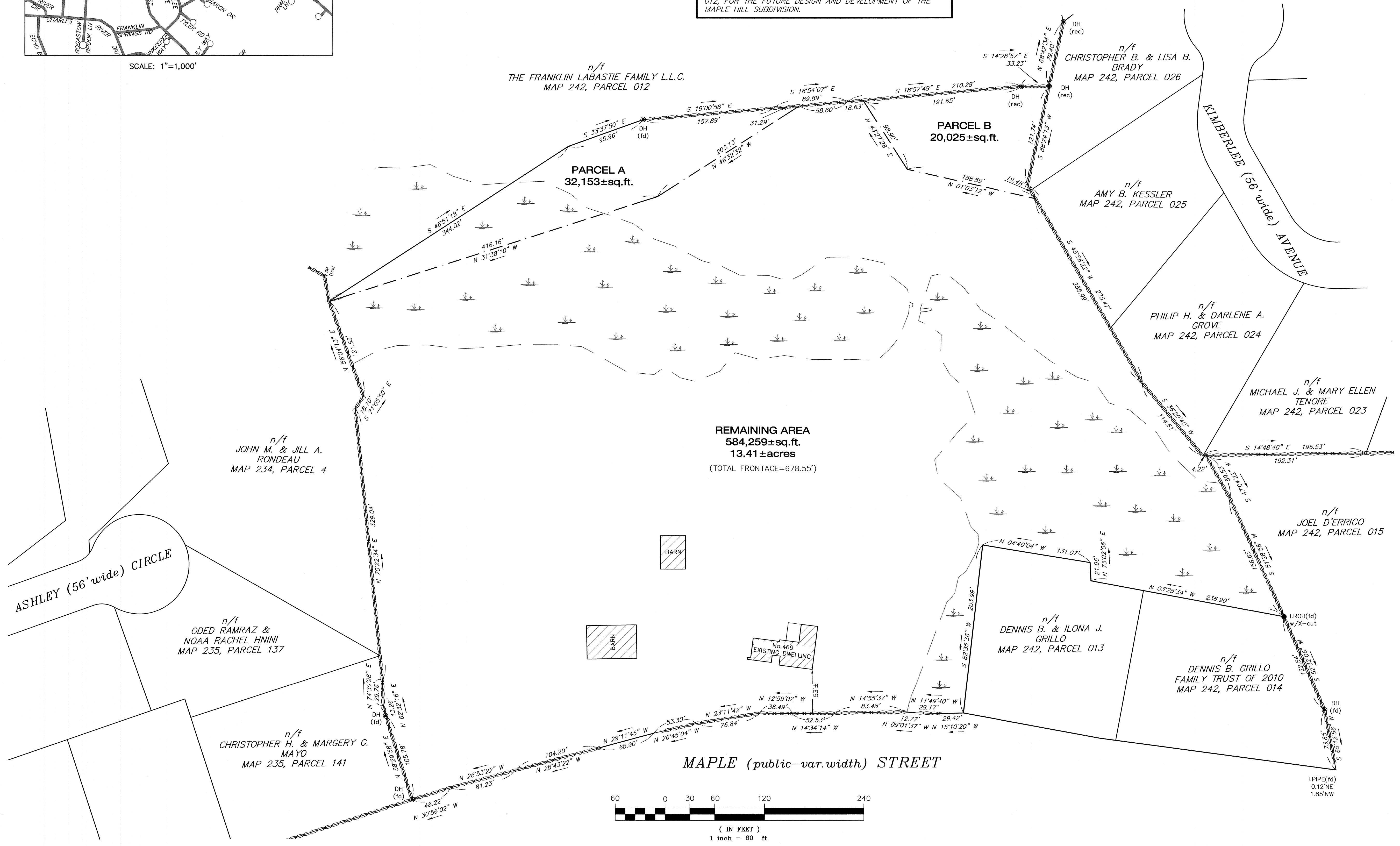
OWNER:  
**THE KATHLEEN A.  
LABASTIE TRUST  
469 MAPLE STREET  
FRANKLIN, MA 02038**

PREPARED FOR:  
**CARROLL  
CONSTRUCTION  
CORP.  
BOX 395  
FOXBOROUGH, MA  
02035**

**Bay Colony Group, Inc.**  
Professional Civil Engineers &  
Professional Land Surveyors

FOUR SCHOOL STREET  
P.O. BOX 9136  
FOXBOROUGH, MA 02035  
508-543-3939

- REFERENCES:
- DEED REF:**  
BK.33761, PG.179
- ASSESSOR'S REF:**  
MAP 235, PARCEL 142
- PLAN REF:**  
LCP No.38163  
PB.353, PLAN No.506-1987  
PB.355, PLAN No.708-1987  
PB.355, PLAN No.800-1987  
PB.385, PLAN No.857-1989  
PB.389, PLAN No.97-1990  
PB.390, PLAN No.146-1990  
PB.396, PLAN No.853-1990  
PB.414, PLAN No.410-1993  
PB.424, PLAN No.562-1994  
PB.424, PLAN No.588-1994  
PB.431, PLAN No.445-1995  
PB.431, PLAN No.446-1995  
PB.437, PLAN No.139-1996  
PB.437, PLAN No.190-1996  
PB.446, PLAN No.161-1997  
PB.447, PLAN No.265-1997  
PB.447, PLAN No.271-1997  
PB.447, PLAN No.272-1997  
PB.489, PLAN No.575-2001  
PB.493, PLAN No.120-2002  
PB.588, PLAN No.13-2008  
PB.663, PAGES 51-53
- ZONING REF:**  
RURAL RESIDENTIAL II



DRAWING TITLE  
**Approval  
Not Required  
Plan**

SCALE: 1" = 60'

JAN. 22, 2021 SHEET NUMBER  
**1 of 1**

CERTIFICATE OF OWNERSHIP

I the undersigned Applicant, do hereby certify to the Town of Franklin, through its Planning Board, that all parties of interest to the below-listed plan are identified in Section B: below,

SECTION A:

Title of Plan: Approval Not Required Plan 369 Maple Street
Date of Plan: January 22, 2021 Assessor's Information: 235-142-000
Prepared by: Bay Colony Group, Inc.

Type of Plan: 81-P; Prelim.; Def.; Site Plan

SECTION B:

Name of Record Owner(s): The Kathleen A. Labastie Trust
Address of Record Owner(s): Kathleen A. Labastie, Trustee
469 Maple Street Franklin, MA 02038

\*If in the name of a Trust, Corporation or Partnership, list the names and addresses of all Trustee(s), Corporate Officer(s) or Partner(s):
Kathleen A. Labastie, Trustee 469 Maple Street Franklin, MA

\*If in the name of a Trust or Corporation, list the Beneficiary(ies) of the Trust or the Shareholder(s) of the Corporation: Kathleen A. Labastie

\*If in the name of a Trust or Corporation, list the date, county, book and page of recording of the Trust Instrument, or the date and State of incorporation:
The Kathleen A. Labastie Trust(Dec. 29, 2015, Norfolk County Bk.35729, Pg.273)

Executed as a sealed instrument this

day of 20

[Signature of Mark Carroll]
Signature of Applicant

Mark Carroll
Print name of Applicant

[Signature of Kathleen A. Labastie]
Signature of Owner

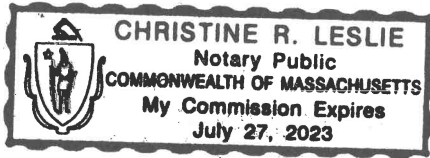
Kathleen A. Labastie
Print name of Owner

COMMONWEALTH OF MASSACHUSETTS

Norfolk ss.

2021

On this 27<sup>th</sup> day of January 2021, before me, the undersigned notary public, personally appeared Kathleen Cabestie (name of Applicant), proved to me through satisfactory evidence of identification, which were Known to me to be the person whose name is signed on the preceding document in my presence.



Christine R. Leslie  
(Official signature and seal of notary)

Notary Public:

My Commission Expires: 7/27/2023

PLANNING BOARD  
FRANKLIN, MASSACHUSETTS

**FORM A**  
APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED  
NOT TO REQUIRE APPROVAL (81-p)

January 22 \_\_\_\_\_, 20<sup>21</sup> \_\_\_\_\_

To the Planning Board of the Town of Franklin, Massachusetts:

The undersigned, believing that the accompanying plan of land in the Town of Franklin does not constitute a subdivision within the meaning of the Subdivision Control Law, for the reason outlined below, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant: Carroll Construction Corp.  
Address of Applicant: Box 395 Foxborough, MA 02035  
Phone No.: 508-954-4804 Email: carrollcorp92@gmail.com
2. Name of Owner (if not the Applicant): Kathleen A. Labastie  
Address of Owner: 469 Maple Street Franklin, MA 02038  
Phone No.: 508-528-0661 Email: \_\_\_\_\_
3. Name of Engineer: Bay Colony Group, Inc
4. Deed of Property recorded in December 31, 2015 with Norfolk Registry, Book 33761, Page 179
5. Location and Description of Property: \_\_\_\_\_
6. Assessor's Map & Lot: Map 235, Lot 142
7. Reasons approval is not required (check as applicable):
  - a) Every lot shown has the area and frontage required by the Zoning By-Law on a way as defined by the Subdivision Regulations
  - b) a public way or way which the Town Clerk certifies is maintained and used as a public way, namely \_\_\_\_\_, or
  - c) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, namely \_\_\_\_\_ on \_\_\_\_\_, and subject to the following conditions \_\_\_\_\_; or
  - d) a private way in existence on March 12, 1954, the date when the subdivision control law became effective in the Town of Franklin having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon, namely \_\_\_\_\_.
  - e) Other: No new buildable lots have been created

  
Signature of Applicant

Mark F. Carroll  
Print Name of Applicant

  
Signature Owner

Kathleen A. Labastie  
Print Name of Owner



CASH ONLY IF ALL CheckLock™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPYING

**BAY COLONY GROUP, INC**

P. O. Box 9136  
Foxboro, MA 02035  
(508) 543-3939

**BANKNORTH, NATIONAL ASSOCIATION**

53-7054/2113

17961

1/28/2021

PAY TO THE ORDER OF Town of Franklin

\$ \*\*150.00

One Hundred Fifty and 00/100\*\*\*\*\* DOLLARS

Town of Franklin

MEMO

*Christine Leslie*

⑆017961⑆ ⑆211370545⑆ ⑆242635966⑆



## **FRANKLIN PLANNING & COMMUNITY DEVELOPMENT**

355 EAST CENTRAL STREET  
FRANKLIN, MA 02038-1352  
TELEPHONE: 508-520-4907  
FAX: 508-520-4906

### **MEMORANDUM**

**DATE:** February 2, 2021  
**TO:** Franklin Planning Board  
**FROM:** Department of Planning and Community Development  
**RE:** 81-P ANR – 469 Maple St

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The DPCD has reviewed the above referenced 81-P (ANR) application for the Monday, February 8, 2021 Planning Board meeting and offers the following commentary:

#### **General**

1. The applicant has submitted a Form A application for 81-P Plan Review to accompany the plan of land for 469 Maple Street, dated January 22, 2021.
2. The purpose of the plan is to move the rear lot lines and add the additional sq/ft to lot 242, Parcel 012.
3. The above application depicts the land known on Assessors Map 235 Lot 142 and Map 242 Lot 012.

#### **ANR Summary**

- The current lot at 469 Maple St is conforming to zoning.

**GENERAL NOTES:**

SUBJECT PROPERTY IS:

1. SHOWN ON THE TOWN OF FRANKLIN ASSESSOR'S MAP 279 AS LOT 254.
2. ZONED COMMERCIAL I.
3. NOT LOCATED WITHIN A WATER RESOURCE DISTRICT PER PLAN ENTITLED "FRANKLIN WATER RESOURCE DISTRICTS," REVISED JULY 1995.
4. NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE PER FIRM COMMUNITY PANEL NO. 25021C0309E, EFFECTIVE DATE JULY 17, 2012.
5. NOT LOCATED WITHIN A NATURAL HERITAGE & ENDANGERED SPECIES PROGRAM (NHESP) AREA DESIGNATED AS AN ESTIMATED OR PRIORITY HABITAT AREA NOR ARE THERE ANY CERTIFIED VERNAL POOLS LOCATED ON THE LOT.
6. NO WETLANDS WERE OBSERVED ON THE SITE.
7. HORIZONTAL DATUM REFERS TO NAD83. VERTICAL DATUM REFERS TO NGVD29.
8. EXISTING FEATURES SHOWN HEREON ARE THE RESULT OF AN ON GROUND DATA COLLECTION SURVEY PERFORM BY GUERRIERE & HALNON, INC. ON DECEMBER 3, 2020.
9. SEE SITE PLAN APPROVED BY THE PLANNING BOARD MAY 21, 2018 ENTITLED 'SITE PLAN 14 RUGGLES STREET MIXED USE APARTMENTS FRANKLIN MA. DATE JANUARY 25, 2017 REVISED THRU MAY 21, 2018 BY GUERRIERE AND HALNON, INC.
10. SEE SITE PLAN MODIFICATION APPROVED BY THE PLANNING BOARD DECEMBER 16, 2019 ENTITLED 'SITE PLAN MODIFICATION 14 RUGGLES STREET MIXED USE APARTMENTS FRANKLIN MA. DATE NOV. 14, 2019 REVISED THRU 12/2/19 BY GUERRIERE AND HALNON, INC.

**COMMERCIAL I<sup>7</sup>**

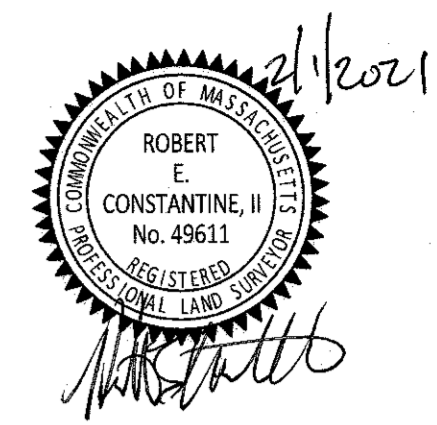
FRANKLIN ZONING BYLAW SECTION 185  
ATTACHMENT 9; LAST AMENDED  
1-22-2014 BY AMENDMENT 13-726

	REQUIRED	AS-BUILT
MINIMUM LOT AREA	5,000 SF	12,276 SF
MINIMUM LOT FRONTAGE	50'	50.00'
MINIMUM LOT DEPTH	50'	203.84'
MINIMUM LOT WIDTH	45'	45.00'

BUILDING HEIGHT	3 STY.	3 STY.
	40 FT.	36.5'

MINIMUM YARDS		
FRONT	20' <sup>1</sup>	134.1'
SIDE (DOWNTOWN COMM.)	0' <sup>2</sup>	11.3'
SIDE (RESIDENTIAL V)	20'	21.6'
REAR	15'	15.1'
% OF LOT UPLAND COVERED BY:		
STRUCTURES	90	15.5% (1912.9±SF)
STRUCTURES+PAVING	100	74.7% (9177±SF)

- <sup>1</sup>BUT NO NEW STRUCTURES SHALL BE REQUIRED TO PROVIDE A DEEPER YARD THAN THAT EXISTING ON THAT PARCEL UPON ADOPTION OF THIS AMENDMENT.  
<sup>2</sup>INCREASE TO 20 FEET WHEN ABUTTING A RESIDENTIAL DISTRICT.  
<sup>7</sup>PERMITTED RESIDENTIAL USES MUST OBSERVE REQUIREMENTS OF THE GENERAL RESIDENTIAL V DISTRICT FOR RESIDENTIAL USE BUILDINGS ONLY. MIXED USE BUILDINGS ARE EXEMPT FROM THIS REQUIREMENT.



F3783

**LEGAL NOTES**

UTILITIES ARE PLOTTED AS A COMPILATION OF RECORD DOCUMENTS, MARKINGS AND OTHER OBSERVED EVIDENCE TO DEVELOP A VIEW OF THE UNDERGROUND UTILITIES AND SHOULD BE CONSIDERED APPROXIMATE. PRIOR TO EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. ADDITIONAL UTILITIES, NOT EVIDENCED BY RECORD DOCUMENTS OR OBSERVED PHYSICAL EVIDENCE, MAY EXIST. CONTRACTORS (IN ACCORDANCE WITH MASS.G.L. CHAPTER 82 SECTION 40 AS AMENDED) MUST CONTACT ALL UTILITY COMPANIES BEFORE EXCAVATING AND DRILLING AND CALL DIGSAFE AT 1(888)DIG-SAFE{7233}.

CONSTRUCTION ON THIS LAND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS, RESERVATIONS, OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE.

**OWNER**

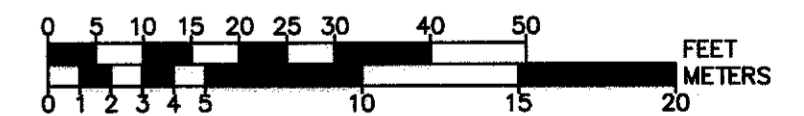
DARREN C. FRANCO, TRUSTEE  
FRANCO RUGGLES STREET REALTY TRUST  
1382 WEST STREET  
MANSFIELD, MA 02048  
DEED BK. 30887 PG. 178

**INTERIM SITE  
AS-BUILT  
14 RUGGLES STREET  
FRANKLIN  
MASSACHUSETTS**

**JANUARY 29, 2021**

DATE	REVISION DESCRIPTION

GRAPHIC SCALE: 1"=20'



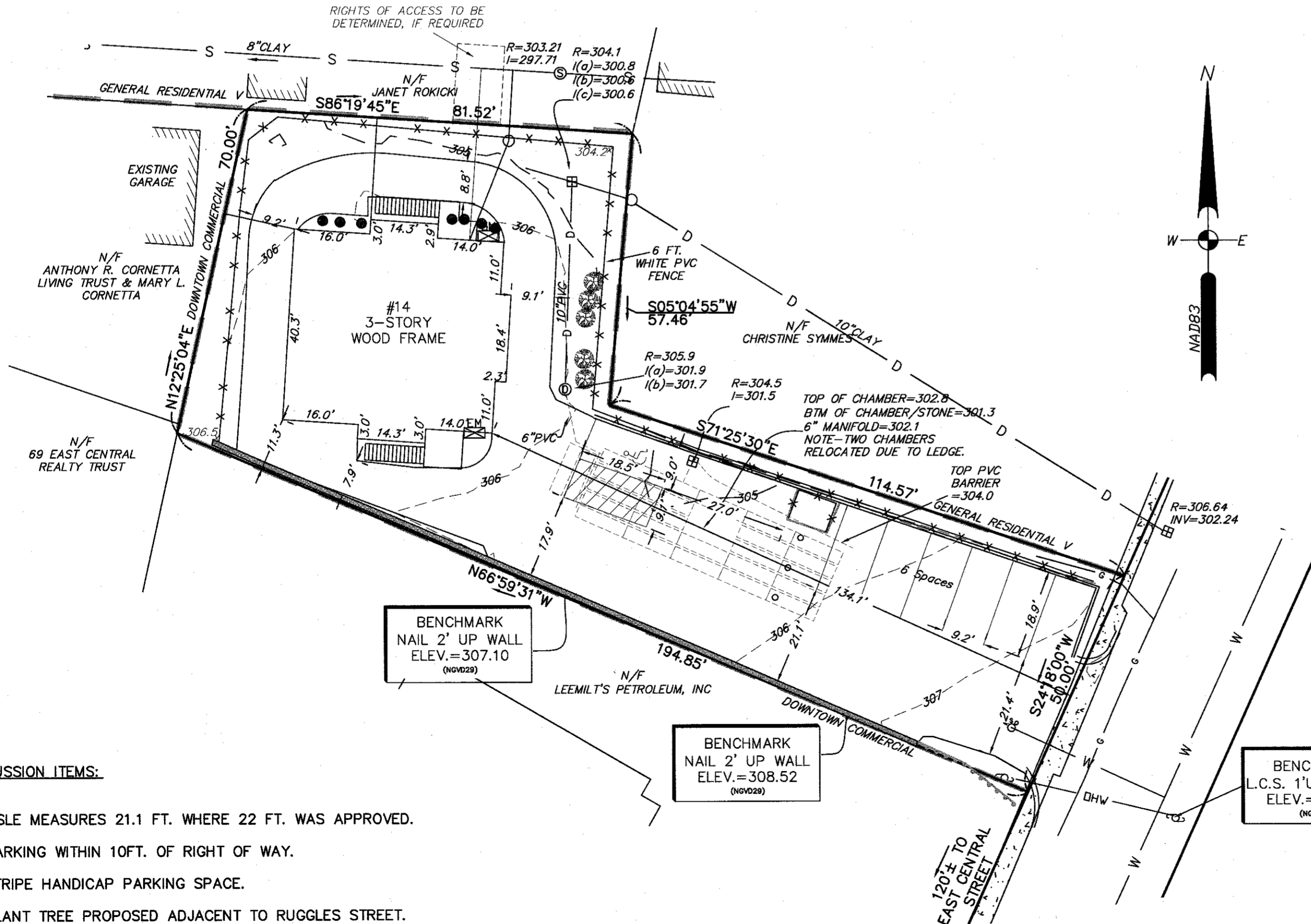
55 WEST CENTRAL ST. PH. (508) 528-3221  
FRANKLIN, MA 02038 FX. (508) 528-7921  
www.gandhengineering.com

SHEET

1 OF 1

JOB NO.

F3783



**DISCUSSION ITEMS:**

1. AISLE MEASURES 21.1 FT. WHERE 22 FT. WAS APPROVED.
2. PARKING WITHIN 10FT. OF RIGHT OF WAY.
3. STRIPE HANDICAP PARKING SPACE.
4. PLANT TREE PROPOSED ADJACENT TO RUGGLES STREET.

SITE PLAN OF LAND

FORM H- PART 1 of 2  
ENGINEER'S AND OWNER'S CERTIFICATE  
OF PARTIAL COMPLETION

(to be executed by developer's engineer)

Site plan known as Site Plan 14 Ruggles Street Mixed Use Apartments

ENGINEERS CERTIFICATION:

I hereby certify that the work/improvements shown on the above referenced site plan and performed or constructed to date have been completed in all respects in accordance with the Town of Franklin zoning requirements and the approved plans entitled:

*Site Plan 14 Ruggles Street Mixed Use Apartments* prepared by Guerrini + Halton Inc and dated January 25, 2017, as approved by the said Planning Board on May 21, 2018 *↳ Revised through May 21, 2018 and Site Plan Modification approved ~~dated~~ December 16, 2019*

Signed this 1<sup>st</sup> day of February, 2021

By Dale MacKinnon, Reg. C.E.

COMMONWEALTH OF MASSACHUSETTS

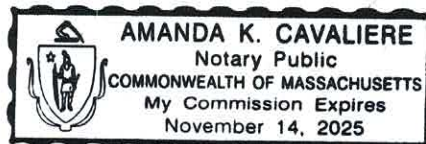
Norfolk, SS.

On this 1<sup>st</sup> day of February, 2021, before me, the undersigned notary public, personally appeared Dale J MacKinnon (name of engineer), proved to me through satisfactory evidence of identification, which were MA license to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Amanda K. Cavaliere  
(Official signature and seal of notary)

Notary Public:

My Commission Expires: Nov. 14, 2025



**SITE PLAN OF LAND**

**FORM H- PART 2 of 2  
ENGINEER'S AND OWNER'S CERTIFICATE  
OF PARTIAL COMPLETION**

Site plan known as Site Plan 14 Buggles Street Mixed Use Apartments + Site Plan Modification  
Site Address: 14 Buggles Street

**OWNER'S CERTIFICATION:**

By signing this form, I am agreeing to the list of outstanding items as attached and defined by the Town Engineer, that must be completed at the above referenced site prior to the issuance of a Certificate of Final Completion by the Planning Board; I also agree to complete work by the required date listed next to each outstanding item. If these items are not completed by the date stated, I acknowledge that I am aware I will be fined \$300 for each offense as stated in §185-31 of the Code of the Town of Franklin and is enforceable by the Building Commissioner or his designee.

A separate form including the following information shall be attached to this document: outstanding items and date of required completion for each item and shall be signed by the Owner's Engineer and the Owner and approved by Town Engineer.

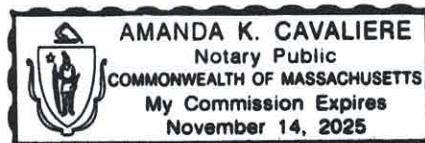
I will return to the Planning Board for the issuance of a Certificate of Final Completion by March 31, 2021 or be fined \$300 for each offense as stated in §185-31 of the Code of the Town of Franklin as enforced by the Building Commissioner or his designee.

Signed this 1<sup>st</sup> day of February, 2021  
By Dana Franco, Owner

Norfolk, SS.

On this 1<sup>st</sup> day of February, 2021, before me, the undersigned notary public, personally appeared Dana Franco (name of owner), proved to me through satisfactory evidence of identification, which were MA license to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Amanda K. Cavaliere  
(Official signature and seal of notary)  
Notary Public:  
My Commission Expires: Nov. 14, 2025



**Site Plan Work Completion List**

*(To accompany Form H- Engineer's and Owner's Certificate of Partial Completion)*

**Site Plan Name:** Site Plan 14 Ruggles Street  
**Owner Name:** Mixed Use Apartments  
**Owner's Engineer:** Franco Ruggles Street Realty Trust  
**Date of Partial Certificate of Completion:** Guerriere & Halnon, Inc.  
January 29, 2021

**Outstanding Items:** **Required Date of Completion:**

Stripe Handicap Parking Space	TBD - Pending Decision by Board
Plant tree proposed adjacent to Ruggles Street	TBD - Pending Decision by Board

Approved by: \_\_\_\_\_, Town Engineer Date: \_\_\_\_\_  
Signed by: Dale MacKinnon, Engineer Date: 2/1/2021  
Signed by: Douglas Francis, Owner Date: 2/1/2021

\* A Notarized Form H- Engineer's and Owner's Certificate of Partial Completion Part 1 and 2 must accompany this form prior to acceptance by the Planning Board.



# TOWN OF FRANKLIN – OBSERVATION REPORT

## 14 Ruggles Street

Report No.:	<b>4831 65 - 07</b>	Date:	<b>February 4, 2021</b>	Arrive:	<b>8:15 AM</b>
Observer:	<b>Matt Crowley, PE</b>	Weather:	<b>Cloudy ~32°</b>	Leave:	<b>8:40 AM</b>
Owner:	<b>Dana Franco 1382 West Street Mansfield, MA 02048</b>	Engineer:	<b>Guerriere &amp; Hanlon 55 West Central Street Franklin, MA 02038</b>		

Items Observed: **Conformance Observation – Submitted in conjunction with Applicant’s request for acceptance of Form H – Certificate of Partial Completion**

### OBSERVATIONS

**Observation Requested By:** Amanda Cavaliere – Guerriere and Halnon

**Met/walked site with:** N/A

**Current Activity on Site:** No current activity

**Observed Construction:** BETA arrived on site to perform a construction observation in conjunction with the Applicant’s request for acceptance of Form H – Certificate of Partial Completion. The required Form H and interim as-built plan, dated January 29, 2021, were provided by email. BETA’s site walk and review of the Approved Plans confirmed the site to be constructed in general conformance with the Approved Plans with the following exceptions:

- Items noted on the Site Plan Work Completion List and noted on the Interim As-built with the exception that the accessible parking space has been striped.
- Lighting may have been revised from that depicted on the Approved Plans. BETA notes that wall sconces are located next to each entrance, including the second floor, and what appears to be a motion sensing floodlight is located at the southwest corner of the building. The floodlight is mounted approximately 12 feet above the ground.
- Five evergreen plantings have been installed adjacent to the Symmes property line, where six were proposed.
- Grading of the parking in the area of the accessible parking does not meet ADA standards.
- The water quality swale areas are comprised of crushed stone instead of grass.
- Car stops have not been installed.
- There is no curbing from the end of the existing retaining wall to Ruggles Street on the south side of the parking area.
- Fence proposed along the westerly property line has been installed closer to the paved walkway.

**SITE PHOTOS**



Accessible parking space (photo 02/04/21)



Five evergreen plantings where six were proposed (photo 11/11/20)





Parking space adjacent to street line and no planting installed in island (photo 11/11/20)



Area between retaining wall and street line that lacks curb installation (photo 11/11/20)



Typical swale area with stone installed in place of grass (photo 11/11/20)



Typical parking area (photo 11/11/20)



Dumpster area (photo 02/04/21)



Light fixture at southeast corner of building mounted approx. 12 feet above ground (photo 02/04/21)



Typical sconce lighting at entryways



## **FRANKLIN PLANNING & COMMUNITY DEVELOPMENT**

355 EAST CENTRAL STREET  
FRANKLIN, MA 02038-1352  
TELEPHONE: 508-520-4907  
FAX: 508-520-4906

### **MEMORANDUM**

**DATE:** February 2, 2021  
**TO:** Franklin Planning Board  
**FROM:** Department of Planning and Community Development  
**RE:** 14 Ruggles Street  
Partial Form H

---

#### **General**

1. The applicant has submitted a Partial Form H and Engineer's Partial Certificate of Completion and as-built plan to date.
2. BETA has provided an onsite report with pictures verifying the site work is complete.
3. The Applicant is requesting the following changes:
  - Aisle width measures 21.5', where 22' was approved
  - Parking within 10ft of right of way
  - Stripe Handicap Parking space
  - Plant tree proposed adjacent to Ruggles Street.

#### Summary:

1. There is concern about the lighting on the building filtering onto the abutting property. This lighting issue should be addressed.
2. The Planning Board should discuss the items listed above and provide feedback to the applicant.