

101 Arch Street 1325 G Street NW
Suite 1101 Suite 770
Boston, MA 02110 Washington, DC 20005
T 617.224.0600 T 202.842.9006
F 617.224.0601 F 202.842.3936

Klein Hornig LLP
COUNSELORS AT LAW

Rita Schwantes
617-224-0620
rschwantes@kleinhornig.com

March 12, 2020

Via Email and Federal Express

Town of Stow Zoning Board of Appeals
380 Great Road
Stow, MA 01775-2127

**Re: Stow Elderly Housing Corp.
 M.G.L. Chapter 40B Comprehensive Permit**

Dear Members of the Zoning Board of Appeals:

On August 14, 2017, Stow Elderly Housing Corporation (the "Applicant") submitted to the Town of Stow Zoning Board of Appeals (the "ZBA") an application for a Comprehensive Permit under M.G.L. Chapter 40B to construct 37 units of elderly rental housing at 252 Great Road to be known as Plantation II Apartments ("Plantation II"). The Applicant simultaneously submitted a request for approval of the modification of a comprehensive permit issued by the ZBA filed with the Town Clerk on May 5, 1982 and recorded with the Middlesex County South Registry of Deeds on September 28, 1982 in Book 14739, Page 11 (the "Original Plantation I Comprehensive Permit") for the elderly housing development adjacent to Plantation II, known as Plantation Apartments ("Plantation I").

The ZBA voted unanimously on January 9, 2019 to approve (1) a comprehensive permit for the Plantation II Project subject to certain conditions and (2) the modification of the Original Plantation I Comprehensive Permit subject to certain conditions. On January 11, 2019, the ZBA filed the two decisions with the Town Clerk, namely, the Decision on Application for Comprehensive Permit "Plantation II" (the "Plantation II Decision") and the Decision on Application for Modifications to Comprehensive Permit "Plantation I" (the "Plantation I Decision") and together with the Plantation II Decision, the "Decisions" and each a "Decision"). Both Decisions were dated as of January 11, 2019.

On January 30, 2019, the Applicant filed two appeals (collectively, the "HAC Appeals") with the Housing Appeals Committee ("HAC") of certain waivers and conditions in the Decisions. The HAC has remanded the Decisions to the ZBA pursuant to the Order of Remand attached as Exhibit A.

The Applicant requests that the ZBA modify the Decisions pursuant to 760 CMR 56.05(11) as requested in this letter and hold public hearings (and provide notice of and advertise such public hearings) to consider the proposed modifications to each Decision.



With this request, the Applicant makes the following additional submissions to the ZBA:

(1) That certain ANR “Plan of Land in Stow, Massachusetts” prepared by Ducharme & Dillis dated September 23, 2019 endorsed by the Town of Stow Planning Board on November 5, 2019 and recorded with the Middlesex Registry of Deeds (Southern District) as Plan No. 59 of 2020 (the “ANR Plan”);

(2) That certain plan entitled “Plantation Apartments II — Exterior Elevations” dated as of April 16, 2019 and prepared by The Architectural Team, Inc. (the “Exterior Elevation Plan”); and

(3) That certain plan entitled “Plantation Apartments II — Building & Wall Section” dated as of April 16, 2019 and prepared by The Architectural Team, Inc. (the “Architectural Drawing”).

Requested Modifications:

1. The Applicant requests that the Decisions be modified to reflect that as depicted in the ANR Plan, the portion of the Plantation II Locus on which the single-family dwelling is located (referred to as the “House Lot” or “Lot 1” in the Plantation II Decision) will not be subdivided into a separate lot and instead will remain part of the “Project Lot”, as such term is defined in the Plantation II Decision. As the thirty-seven unit rental apartment building and the House will be situated on the same reconfigured parcel, the Plantation II Project will consist of thirty-eight (38) units in the aggregate. We request that the project description be updated as follows:

The project is currently comprised of thirty-eight units in the aggregate, consisting of thirty-seven rental apartments for the elderly, together with related facilities (the “Apartment Building”), and one existing single-family dwelling (the “House”), which, in SEHC’s sole discretion, may be either rented as market-rate rental housing or submitted to the state condominium statute such that Plantation II would consist of two condominium units — one unit comprising the Apartment Building and related facilities (the “Apartment Unit”) and the second unit comprising the House (the “House Unit”). If SEHC were to decide in its sole discretion to declare a condominium, SEHC may sell the House Unit to a market-rate purchaser. SEHC’s revised Plantation II Application entails the reconfiguration of several parcels, owned by related entities, such that 1) the House will be located and the Apartment Building will be constructed on a consolidated lot containing approximately 3.76 acres, with frontage on Great Road (“Project Lot”) and 2) a second lot will be the site of a well to serve the Plantation II Project (“Well Lot”).

Due to this proposed reconfiguration of the lots, the Appendix B: Decisions on Waivers (Table of Dimensional Requirements) will need to be updated as on the attached Exhibit B. Likewise, various waivers will need to be modified to reflect the proposed reconfiguration or eliminated (because no longer relevant) as follows:

- A. The waiver of uses granted in the Plantation II Decision will need to be expanded in include a waiver for the single-family dwelling.

- B. The waiver from Zoning Bylaw Section 3.10 will need to be expanded to include a waiver for the single-family dwelling.
 - C. The waiver with respect to Lot Frontage set forth on page 3 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 4.1.2” is no longer required and should be eliminated.
 - D. The waiver with respect to Area suitable for Building page 3 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 4.3.2.3” is no longer required and should be eliminated.
 - E. The waiver granted with respect to Lot Width on page 3 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 4.3.2.4” will need to be modified to apply to Parcels A and A1.
 - F. The waiver granted with respect to Lot Shape will need to be modified to apply to combined Parcels A and A1.
 - G. The waiver with respect to Front Yards on page 4 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 4.3.2.6” is no longer required and should be eliminated.
 - H. The waiver with respect to Water Resource Protection District will need be modified to reflect that the Project Lot will render impervious 44,037 square feet out of 123,228 square feet (35.7%).
 - I. The waiver with respect to Subdivision Controls set forth in sections 2, 3, 4, 5 and 6 on pages 6 and 7 of Appendix B of the Plantation II Decision and sections 3, 4, 5 and 6 on page 3 of Appendix B of the Plantation I Decision will need to be modified to reflect the proposed reconfiguration of the lots pursuant to the ANR Plan.
2. The Applicant requests that Condition No. 49 of the Plantation II Decision and Conditions No. 24 and 32 of the Plantation I Decision be modified to reflect that the owner of the Plantation I Project and the owner of the Plantation II Project will enter into one or more contractual arrangements whereby each accepts joint and several responsibility and liability for the performance and the cost of:
- Maintenance and snow clearance for the shared portion of Johnston Way,
 - Maintenance of fire protection water cisterns, and
 - Compliance with all maintenance and regulatory requirements for the sewer treatment facility shared by the Plantation I Project and the Plantation II Project.

The owner of the Plantation I Project and the owner of the Plantation II Project will create and record easements that are consistent with the installation and operation of utilities and rights to passage as follows:

- an easement for the Plantation II Project owner to install and maintain the water service from the Plantation II wells across the Plantation I Locus;
- an easement for the Plantation II Project owner to improve and use Johnston Way for passage and utilities; and
- an easement for the Plantation I Project to access and maintain and operate all elements of the shared sewer treatment facility located on Plantation II Locus.

3. The Applicant requests a waiver from the requirement that it obtain a special permit from the Planning Board pursuant to Section 3.8.1.10. The Applicant acknowledges that the project is required to otherwise comply with the erosion control requirements of the Zoning Bylaw.

4. The waiver of the Roof Height set forth on page 2 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 4.2” is no longer required and should be eliminated. The Applicant has reviewed the Architectural Drawing with the Town Building Inspector and was informed by him in an e-mail sent to the Applicant on July 2, 2019 that the Architectural Drawing shows the mean height of the roof of the Project’s building at 35 feet, which is in compliance with Section 4.2 of the Zoning Bylaws.” Furthermore, the Town Building Inspector reviewed that certain plan set entitled “Site Construction Plan Plantation Apartments II” dated as of November 14, 2018 and prepared by Ducharme & Dillis Civil Design Group, Inc., and he determined in an e-mail sent to the Applicant dated July 17, 2019 that, as the proposed final grade [of the Project Lot] is 228.5 with a maximum height of 35 feet to the mean of the sloped roof, [the roof height] appears to be in compliance with the height regulations in Section 4.2.2 of the Zoning Bylaws. The Applicant therefore submits to the ZBA that no further amendment to the plan beyond the Architectural Drawing and the Exterior Elevation Plan (which did not modify the proposed Project, but rather provided additional detail) shall be required prior to the issuance of a building permit to show compliance with Section 4.2.2 of the Zoning Bylaws.

5. The Applicant requests the deletion of the requirement on page 5 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 7.7.1. Parking,” that with respect to the lot line(s) shared with the Plantation I property, the parking spaces shall be located no closer than fifteen (15) feet to the lines.

6. The Applicant requests that the ZBA provide in the modified Decisions that once the Site is reconfigured (into the Project Lot, the Well Lot and the reconfigured Plantation I Project Locus), then the Project Lot and the reconfigured Plantation I Project Locus will not be in violation of this Decision by virtue of any violation with respect to the Project Lot and the reconfigured Plantation I Project Locus, updating Page 9 of Appendix B to the Plantation II Decision.

7. The Applicant requests that the Plantation I Decision be modified to make it consistent with the Plantation II Decision with respect to the description of the acreage, to grant a waiver from Zoning Bylaw Section 4.1.1 (regarding the prohibition of construction or use of land or

building in violation of the Zoning Bylaw or any Town Bylaw), to grant a waiver of Section 4.4 of the Zoning Bylaw of the minimum side setback requirement of 25 feet to allow for a side setback of 6.5 feet with respect to the control building (a waiver of 18.5 feet), as well as otherwise conforming Plantation I Decision to any changes made in the course of modifying the Plantation II Decision per this request.

While additional objections to waivers and conditions were raised in the HAC Appeals, the Applicant expects that with the resolution of the foregoing requests, it will waive such objections and seek dismissal of the HAC Appeals. However, in the interim, the Applicant reserves all rights to request additional modifications to the Decisions consistent with the HAC Appeals and otherwise reserves all rights with respect to the HAC Appeals.

If you have any questions about this request or need additional information, please do not hesitate to contact me directly or Nina Schwarzchild at 617-945-3222.

Sincerely,



Rita M. Schwantes
617-224-0620 (direct)
rschwantes@kleinhornig.com

Enclosures

cc: Jesse Steadman, Town Planner (via email)
Vicki Blake (via email)
Nina Schwarzschild (via email)
Peter Munkenbeck (via email)
Barbara Huggins Carboni, Esq., Town Counsel (via email)
Dennis Murphy, Esq. (via email)

Exhibit A

HAC Order of Remand

COMMONWEALTH OF MASSACHUSETTS
HOUSING APPEALS COMMITTEE

STOW ELDERLY HOUSING CORP.)	
)	
Appellant,)	
)	
v.)	No. 2019-02
)	(Consolidated with No. 2019-01)
STOW ZONING BOARD OF APPEALS,)	
)	
Appellee.)	
)	

**ORDER OF REMAND ON JOINT MOTION FOR
REMAND TO STOW ZONING BOARD OF APPEALS**

On February 18, 2020, the parties, following settlement discussions, filed a Joint Motion for Remand to Stow Zoning Board of Appeals so the Board may conduct a public hearing on the limited issues raised in these proceedings by Stow Elderly Housing Corp. (SEHC). SEHC further asked that the Committee retain jurisdiction over these proceedings. The Board opposed retention of jurisdiction, as did the proposed interveners.

Following discussion at today’s teleconference with counsel, I hereby order that the Joint Motion for Remand is hereby granted for the purposes specified in the motion. In addition, I order the following:

1. The Committee will retain jurisdiction over this matter.
2. In view of the Board’s expectation that it will hold a hearing within six weeks, SEHC shall file a status report with the Committee on or before August 15, 2020, if the Board has not yet issued a remand decision.
3. The Board shall promptly file a copy of its remand decision with the Committee.
4. If upon conclusion of the remand proceeding before the Board, SEHC is not satisfied with the Board’s decision on remand, it shall, within 20 days of the filing of the

remand decision, file a motion to vacate the remand and an appropriate motion with respect to the remaining issues for appeal.

5. If upon conclusion of the remand proceeding before the Board, SEHC is satisfied with the Board's decision on remand, it shall promptly file a motion to withdraw the initial pleading filed in this matter, which may be assented to by the Board.

Housing Appeals Committee



Shelagh A. Ellman-Pearl, Chair
Presiding Officer

March 3, 2020

Certificate of Service

I, Veronica G. Barros, Clerk to the Housing Appeals Committee, certify that this day I caused to be mailed, first class, postage prepaid, a copy of the within Order of Remand on Joint Motion for Remand to Stow Zoning Board of Appeals in the cases of Stow Elderly Housing Corp. v. Stow Zoning Board of Appeals, Nos. 2019-01, 2019-02, to:

Michael S. Rabieh, Esq.
The Law Office of Michael S. Rabieh
26 Brighton Street, Suite 204
Belmont, MA 02478

Barbara Huggins Carboni, Esq.
KP Law
101 Arch Street, 12th Floor
Boston, MA 02110

Daniel C. Hill, Esq.
Dennis A. Murphy, Esq.
Law Offices of Daniel C. Hill
6 Beacon Street, Suite 600
Boston, MA 02108

Dated: 3/3/2020



Veronica G. Barros, Clerk
Housing Appeals Committee

Exhibit B

The sections of pages 1 and 2 of Appendix B to the Plantation II Decision entitled “Zoning Bylaw Section 4.4 (Table of Dimensional Requirements)” that referred to the “House Lot” and the “Project Lot”, including the discussions following the asterisks embedded in the table, will need to be updated as follows:

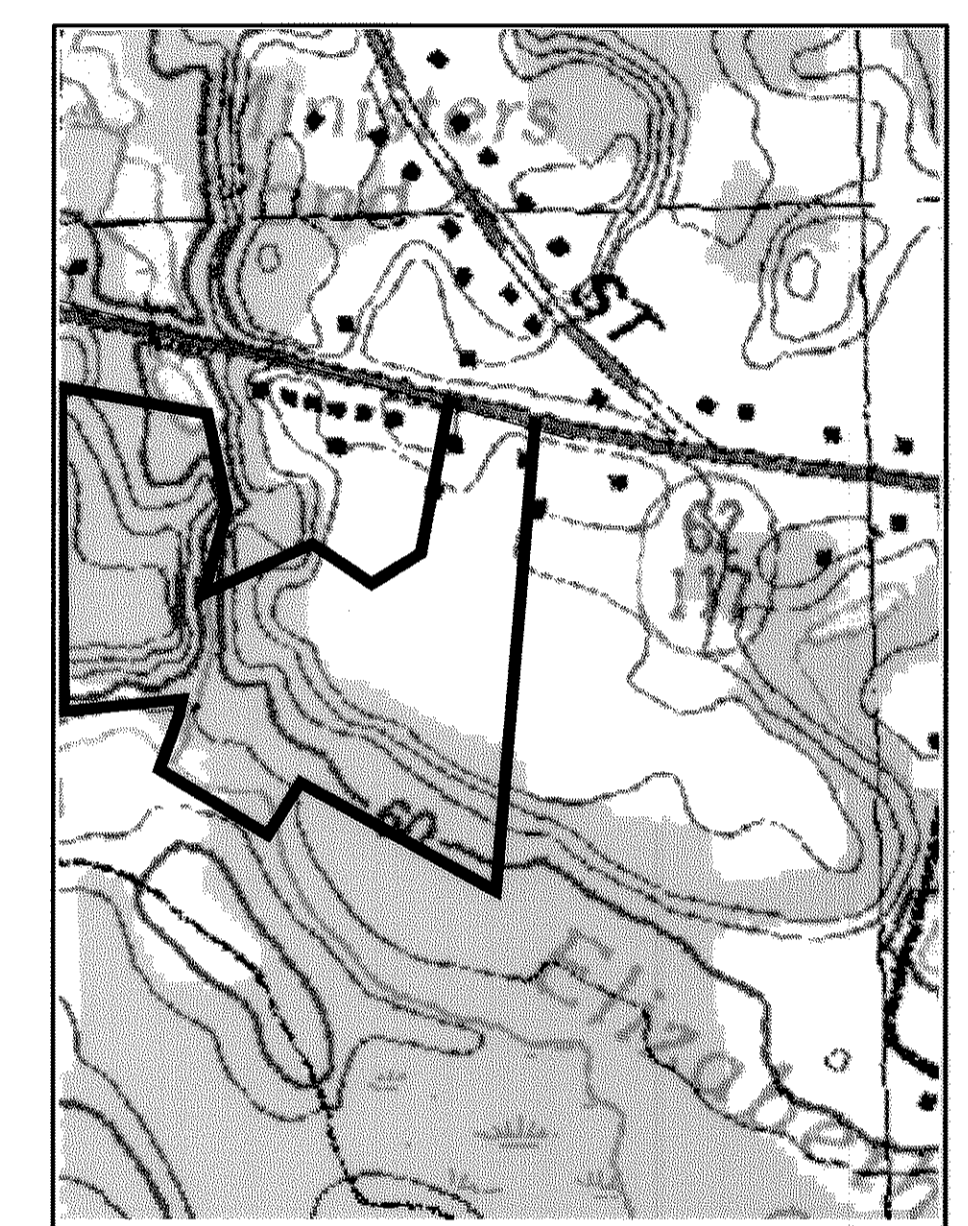
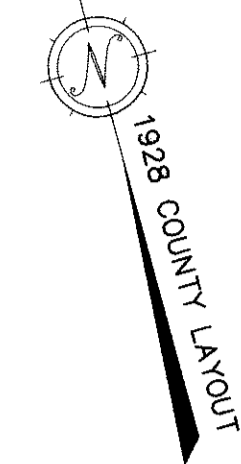
Project Lot

<u>Dimension</u>	<u>Required</u>	<u>Provided</u>	<u>Waiver Granted</u>
Minimum Lot Area	65,340 sq. ft. per unit x 38	153,355 sq. ft.	*
Minimum Frontage	200 ft.	75 ft.	125 ft.
Minimum front setback	30 ft.	29.1 ft.	0.9 ft.
Minimum rear setback	40 ft.	“not applicable”	*
Minimum side setback	25 ft.	2.1 ft.	*
Minimum open space	10%	33.4%	no waiver requested
Minimum side setback (Control Building)	25 ft.	6.5 ft.	18.5 ft.

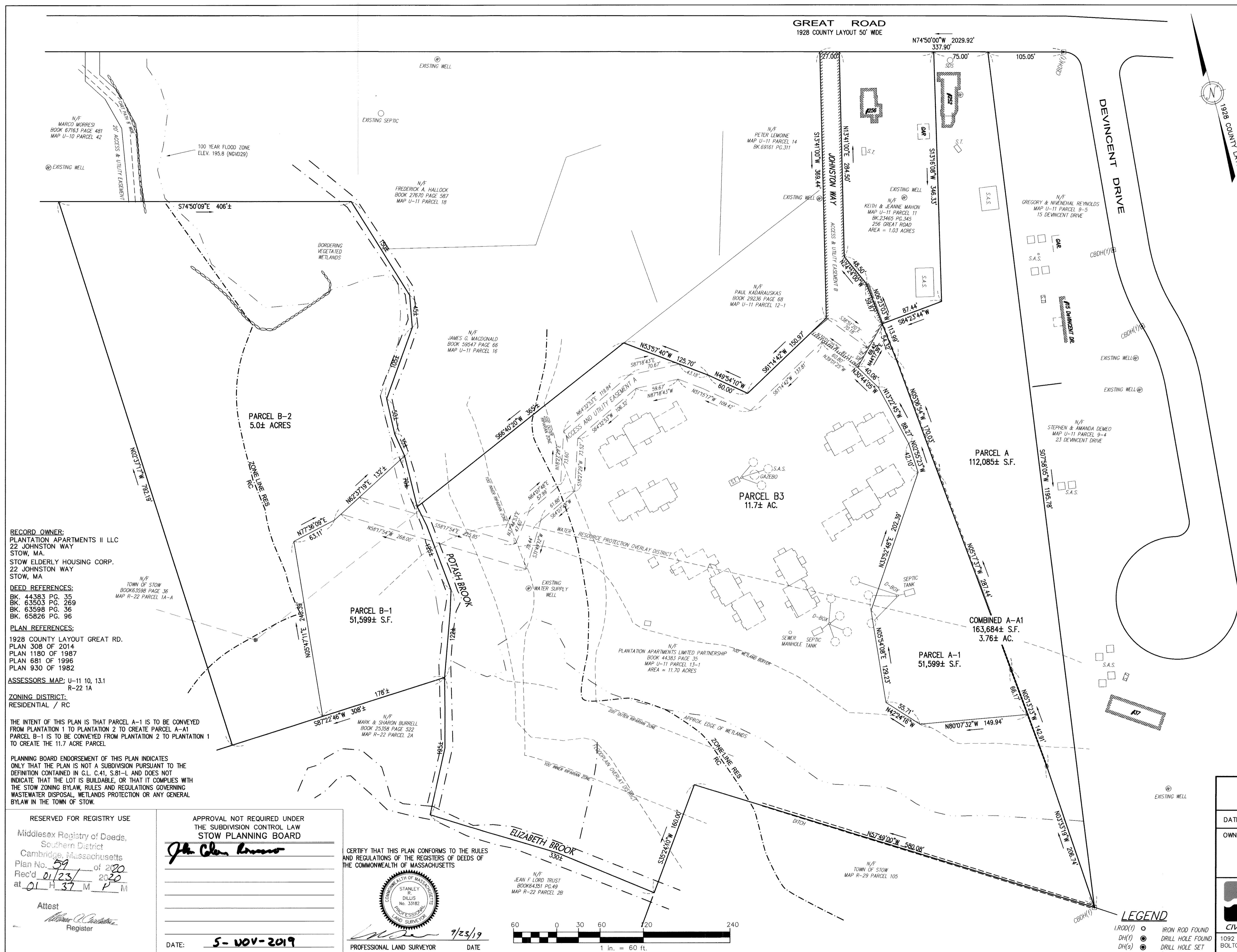
*The Board waives these requirements as inapplicable to the project.

GREAT ROAD
1928 COUNTY LAYOUT 50' WIDE

NOTES:
1. THE LAND OUTSIDE OF THE PROPOSED ANR SHALL NOT BE CONSIDERED AS PART OF THIS ENDORSEMENT.
2. THIS PLAN IS MEANT AND INTENDED TO SUPERSEDE ALL PLANS PREDATING THIS ENDORSEMENT. ANY FURTHER DEVELOPMENT OR DIVISION OF LAND WHICH WILL RESULT IN THE CREATION OF 6 OR MORE DWELLING UNITS ON THE PROPERTY SHOWN ON THE PLAN SHALL REQUIRE A SPECIAL PERMIT FROM THE PLANNING BOARD IN ACCORDANCE WITH SECTION 8.9 OF THE ZONING BYLAW.
3. OVERLAY DISTRICTS WITHIN ARE AS SHOWN HEREON.
4. EXISTING WELLS AND SEWAGE DISPOSAL SYSTEMS WITHIN 150 FEET OF THE NEW LOT LINES HAVE BEEN SHOWN FROM BOARD OF HEALTH RECORDS AND FIELD LOCATIONS. UNLESS NO RECORDS EXIST AND NO EVIDENCE OF SYSTEM CAN BE LOCATED. A NEW WASTEWATER TREATMENT SYSTEM FOR BOTH PLANTATION 1 & 2 IS PROPOSED AS PART OF THE COMPREHENSIVE PERMIT FOR PLANTATION 2.
5. LOTS DEPICTED ON THIS PLAN ARE CREATED PURSUANT TO WAIVERS GRANTED BY THE STOW ZONING BOARD OF APPEALS IN A COMPREHENSIVE PERMIT DECISION DATED 1-11-2019 FOR PLANTATION 1 AND 1-11-2019 FOR PLANTATION 2.
6. THIS PLAN RELIES ON TWO COMPREHENSIVE PERMITS ISSUED BY THE STOW ZONING BOARD OF APPEALS BOTH DATED 1-11-2019 FOR MODIFICATION TO COMPREHENSIVE PERMIT FOR PLANTATION 1 AND DECISION ON APPLICATION FOR COMPREHENSIVE PERMIT FOR PLANTATION 2.



LOCUS MAP
SCALE: 1" = 500'



RECORD OWNER:
PLANTATION APARTMENTS II LLC
22 JOHNSTON WAY
STOW, MA.
STOW ELDERLY HOUSING CORP.
22 JOHNSTON WAY
STOW, MA

DEED REFERENCES:
BK. 44383 PG. 35
BK. 63503 PG. 269
BK. 63598 PG. 36
BK. 65826 PG. 96

PLAN REFERENCES:
1928 COUNTY LAYOUT GREAT RD.
PLAN 308 OF 2014
PLAN 1180 OF 1987
PLAN 681 OF 1996
PLAN 930 OF 1982

ASSESSORS MAP: U-11 10, 13.1
R-22 1A

ZONING DISTRICT:
RESIDENTIAL / RC

THE INTENT OF THIS PLAN IS THAT PARCEL A-1 IS TO BE CONVEYED FROM PLANTATION 1 TO PLANTATION 2 TO CREATE PARCEL A-A1. PARCEL B-1 IS TO BE CONVEYED FROM PLANTATION 2 TO PLANTATION 1 TO CREATE THE 11.7 ACRE PARCEL.

PLANNING BOARD ENDORSEMENT OF THIS PLAN INDICATES ONLY THAT THE PLAN IS NOT A SUBDIVISION PURSUANT TO THE DEFINITION CONTAINED IN G.L. C.41, S.81-L AND DOES NOT INDICATE THAT THE LOT IS BUILDABLE, OR THAT IT COMPLIES WITH THE STOW ZONING BYLAW, RULES AND REGULATIONS GOVERNING WASTEWATER DISPOSAL, WETLANDS PROTECTION OR ANY GENERAL BYLAW IN THE TOWN OF STOW.

RESERVED FOR REGISTRY USE

Middlesex Registry of Deeds,
Southern District
Cambridge, Massachusetts
Plan No. 59 of 200
Rec'd 01/23/ 2020
at 01 H 37 M P

Attest
Alison O. Casanova
Register

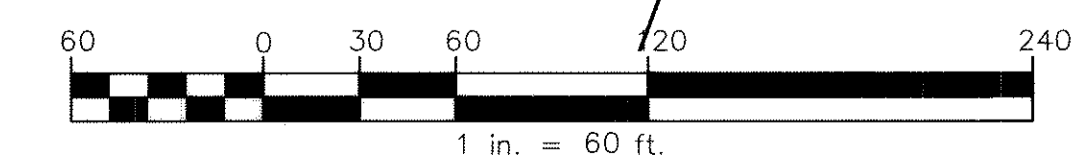
APPROVAL NOT REQUIRED UNDER THE SUBDIVISION CONTROL LAW
STOW PLANNING BOARD

John Alan Lawrence

DATE: 5-NOV-2019

CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS

Stanley R. Dillis
7/23/19
PROFESSIONAL LAND SURVEYOR DATE



PLAN OF LAND IN STOW, MASSACHUSETTS	
DATE: SEPTEMBER 23, 2019	SCALE: 1 in. = 60 ft.
OWNER: PLANTATION APARTMENTS II LLC 22 JOHNSTON WAY STOW, MA. STOW ELDERLY HOUSING CORP. 22 JOHNSTON WAY STOW, MA	JOB NO. 4644-2 DWG. NO. 4644-2ANR
DUCHARME & DILLIS Civil Design Group, Inc. CIVIL ENGINEERS • LAND SURVEYORS • WETLAND CONSULTANTS	
1092 MAIN STREET, P.O. BOX 428 PHONE: 978-779-6091 FAX: 978-779-0260 BOLTON, MASSACHUSETTS 01740 www.dcdg.com COPYRIGHT DUCHARME & DILLIS-CIVIL DESIGN GROUP, INC 2015	

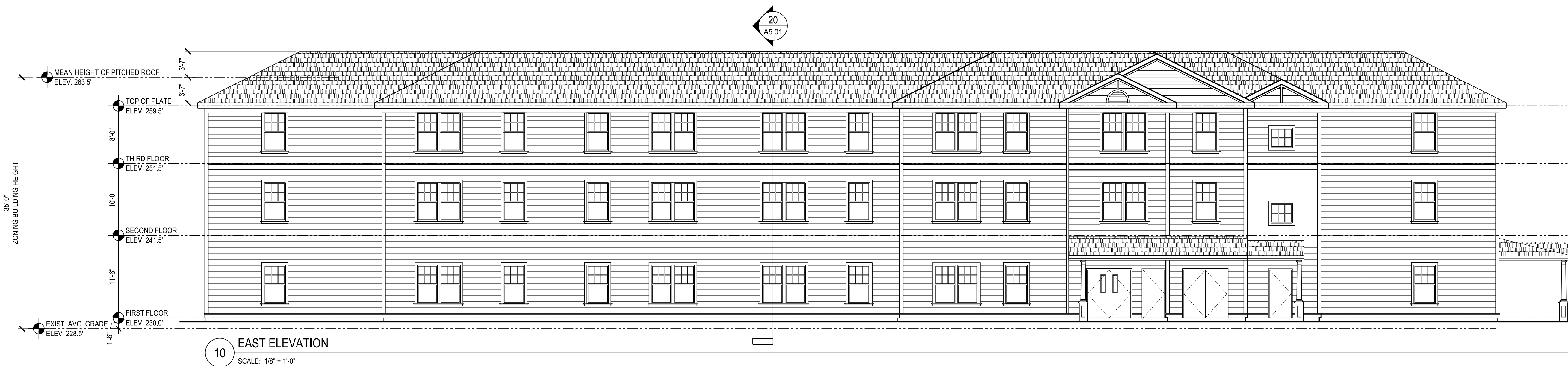
LEGEND

IR0D(f) ○ IRON ROD FOUND
DH(f) ○ DRILL HOLE FOUND
DH(s) ● DRILL HOLE SET

59 of 2020

AH

Tuesday, April 16, 2019 2:01:57 PM
P:\09152_Stow Senior Housing, Plantation Apts II\Drawings\Working\Plot Files\09152_A4.01 Elevations 2019_04Apr_10.dwg



NOTE: EXISTING AVERAGE GRADE AROUND PERIMETER OF PROPOSED BUILDING IS BASED UPON "EXISTING CONDITIONS PLAN", DATED 11/14/18 BY DUCHARME & DILLIS

tat |
the architectural team

The Architectural Team, Inc.
50 Commandant's Way at Admiral's Hill
Chelsea MA 02150
T 617.889.4402
F 617.884.4329
www.architecturalteam.com
©2008 The Architectural Team, Inc.

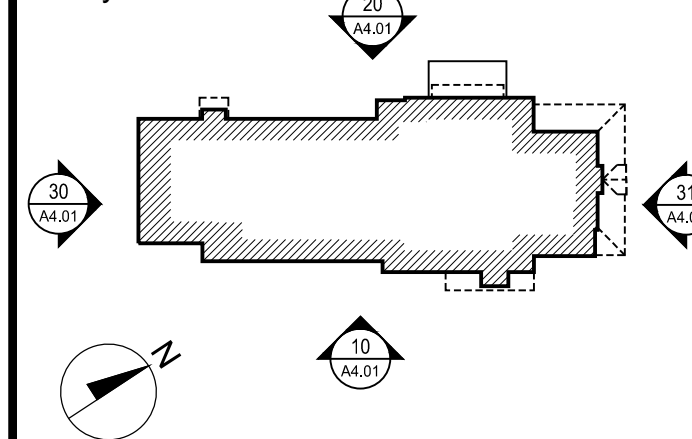
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Revision:
REV 1 4/16/2019

Architect of Record:

NOT FOR CONSTRUCTION

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Checked: AS
Scale: 1/8" = 1'-0"
Key Plan:



Project Name:

**Plantation
Apartments II**

Johnston Way
Stow, MA 01775

Sheet Name:

Exterior Elevations

Project Number:

09152

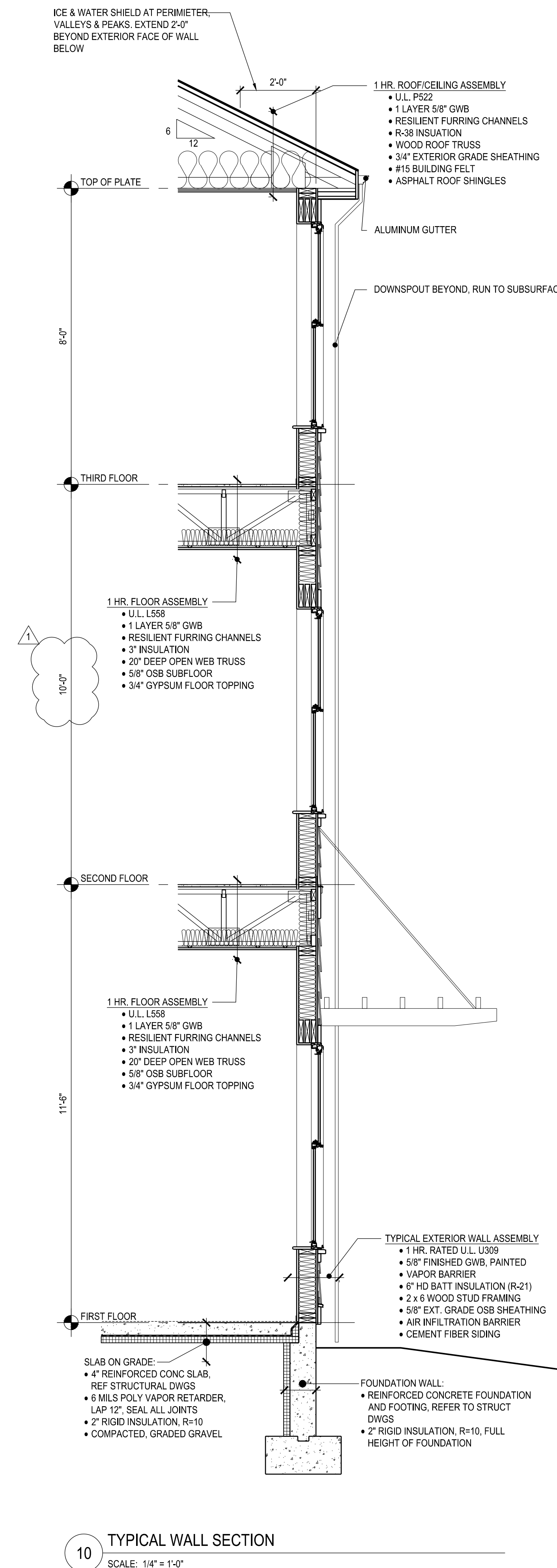
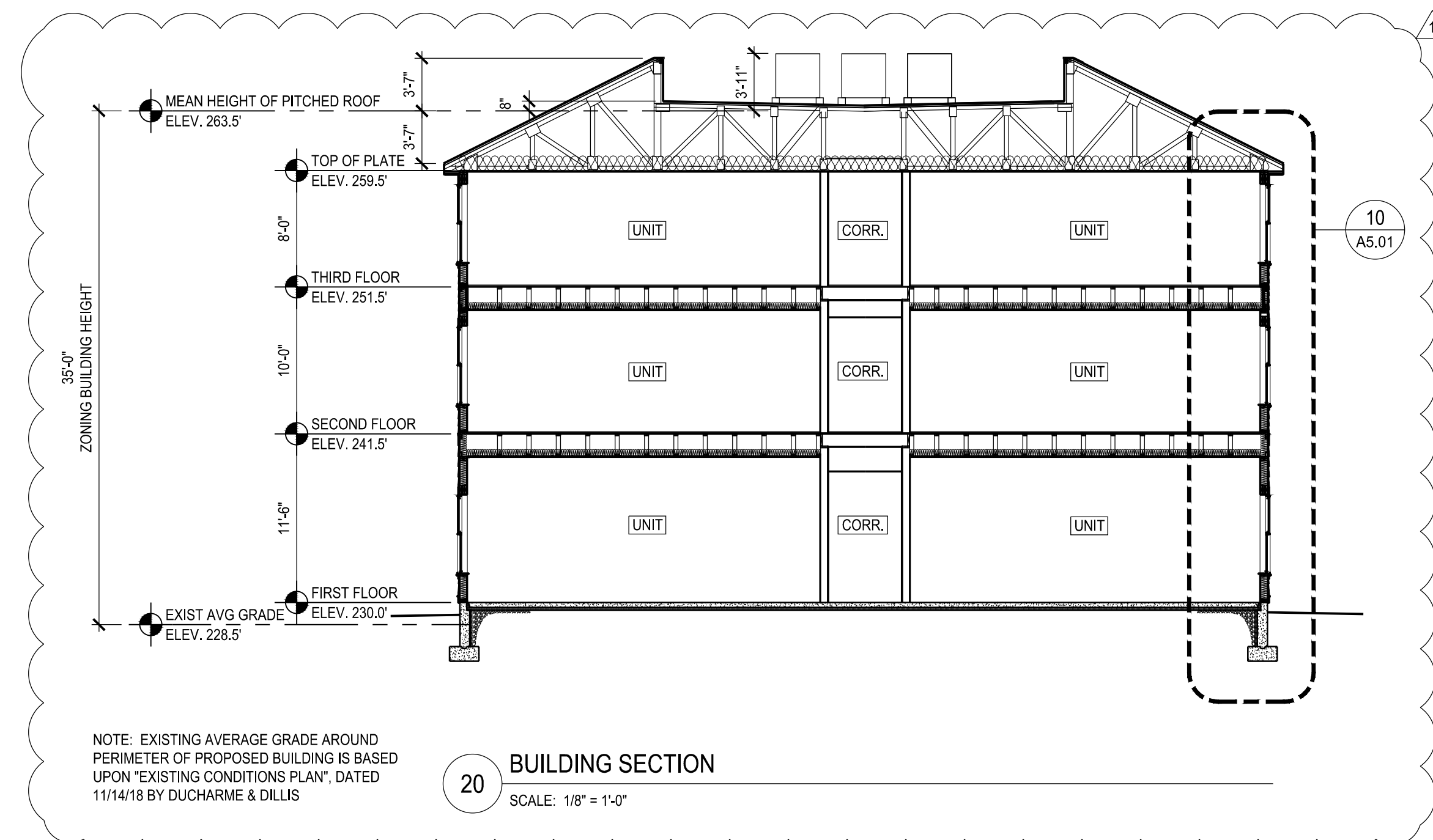
Issue Date:

August 8, 2017

Sheet Number:

A4.01

Tuesday, April 16, 2019 1:52:28 PM
P:\09152_Stow Senior Housing_Plantation Apts (I)Drawings\Working\Plot Files\09152_A5.01 Building Section 2019_04Apr_10.dwg



The Architectural Team, Inc.
50 Commandant's Way at Admirals Hill
Chelsea MA 02150
T 617.889.4402
F 617.884.4329
www.architecturalteam.com
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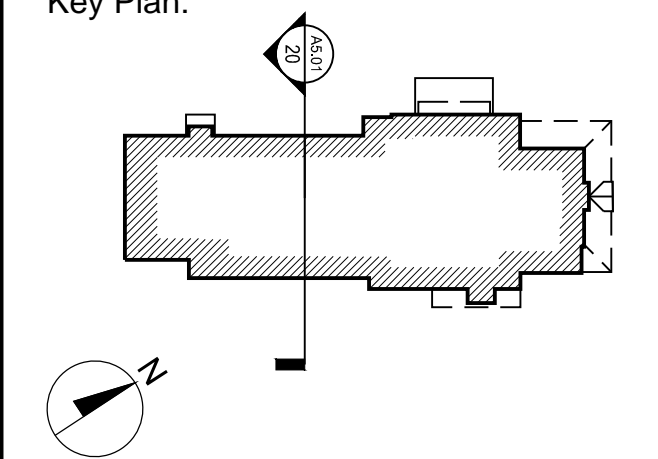
Consultant:

Revision:
REV 1 4/16/2019

Architect of Record:

NOT FOR CONSTRUCTION

Drawn: AB/AS
Checked: AS
Scale: AS NOTED
Key Plan:



Project Name:
**Plantation
Apartments II**

Johnston Way
Stow, MA 01775

Sheet Name:

Building & Wall Section

Project Number:
09152

Issue Date:
August 8, 2017

Sheet Number:

A5.01