

Town of Acton

APPLICATION FOR SITE PLAN SPECIAL PERMIT

To The

Board Of Selectmen

Refer to the 'Rules and Regulations for Site Plan Special Permits' available from the Office of the Board or the Site Plan Coordinator for details on the information and fees required for this application. Contact the Site Plan Coordinator at 264-9632 with any questions concerning the Rules. Incomplete applications may be denied.

Please type or print your application.

APPLICANT'S

Name & Address

CAPPIZZI COMPANY, INC  
820 MAIN STREET  
ACTON MA 01720

Telephone

978-263-3726

OWNER'S

Name & Address

SAME

Telephone

Location and Street Address of Site

820 MAIN STREET

Tax Map & Parcel Number

C5 - 60

Area of Site 3.87 ac.

Zoning District

SMALL MANUFACTURING  
GWPD #3 OVERLAY

If any site plans have been filed previously for this site give file numbers:

11/25/87-292

The undersigned hereby apply to the Board of Selectmen for a public hearing and a site plan special permit under Section 10.4 of the Zoning Bylaw approving the attached site plan.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

Date

Signature of Petitioner

OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

Anthony P. Capizzi

6/9/10

Date

Signature of Owner



CAPIZZI COMPANY, INC  
820 MAIN STREET

SITE PLAN SPECIAL PERMIT – 4,000 SQUARE FOOT BUILDING

3.1 APPLICATION FORM

A completed Application for a Site Plan Special Permit is attached.

3.2 CERTIFIED ABUTTERS LIST

A Certified Abutters List is attached

3.3 USE DESCRIPTION

Capizzi Company, Inc specializes in landscape construction and installation of plant materials and the site is utilized to support these activities which take place at properties throughout the metropolitan Boston area.

Managerial activities occur in the office located in the building at the front of the site which also houses a garage utilized for vehicle and equipment maintenance and repairs and for storage of equipment and materials that are not weather resistant or must be stored under cover. The radio tower is use for communications between the office and vehicles at sites.

An additional building, to the rear of the office building, provides for covered storage of vehicles and equipment. The adjacent greenhouse provides for storage of herbaceous plants.

Interior sections of the site are used for the storage of landscape stones and other materials and bulk storage of loam, woodchips/mulch occurs in the northwest corner of the site. A facility for loading trucks is located near the northeast corner. Other portions of the sites perimeter are used as a nursery.

A paved parking area at the front of the site is separated from Main Street by a 60 foot wide landscaped area. The paved parking lot provides a connection between the public entrance to the site, at the center of the site, and a gravel drive that extends around the interior storage area to a gated entrance near the western border of the property. The gravel driveway is capable of providing secondary access for SU 30 vehicles.

The proposed 100 foot long by 40 foot deep three sided metal building is to provide for additional storage of equipment and is to be installed as shown on the site plan. The building is not to be heated, will have a gravel surfaced floor and is not to serve for human occupancy.

## CAPIZZI COMPANY NARRATIVE – 2/4

The environs of the site to the north of Main Street can best be described as being commercial in nature with a prefabricated housing plant towards the north and east and a self storage facility located on the other side of the wetlands bordering the site on the west.

The area to the south of Main Street, or on the opposite side of the road, is residential.

### 3.4 OTHER PERMITS AND VARIANCES

Plans on file at this office show an existing building at the front of the site in 1973 and that the rear storage building was in existence at the time Site plans for the additions to the front building were filed in 1986. A copy of Site Plan Special Permit 11/25/87-292 is attached.

This firm's research of Land Court Records found the two attached Order of Conditions, but did not find any variances or other Special Permits.

No attempt was made to retrieve copies of building and related permits as the information provided will have no bearing on the present application.

An underground storage tank was removed in the early 1990s and replaced with two [gasoline and diesel] above ground steel tanks located in a fenced in area. Waste oil and gas cylinder storage are also in separate fenced in areas

Verizon Wireless holds a lease, as described in the enclosed document, on a portion of the property.

### 3.5 RECORDED PLANS

A copy of the Land Court Plan for the property is attached and the relevant boundary information has been shown on the Site Plan.

### 3.6 DRAINAGE CALCULATIONS

Stormwater management calculations are attached and show that the proposed drip line recharge trenches to be installed on the three closed sides of the building have sufficient capacity to recharge the volume of roof runoff from a 100 year 24 hour duration storm.

A gutter will be installed along the front, or open side, of the building and downspouts from the gutters will discharge to the drip line recharge trenches at each end.

Drip line recharge trenches were chosen as they provide for recharge over a large area and provide a greater offset to groundwater than drywells.

### 3.7 WATER BALANCE CALCUKATIONS

As shown by the stormwater management calculations, roof runoff from the proposed building will be recharged on site and as a result their will be no change in the runoff from the site and the amount of recharge will remain the same.

### 3.8 EARTH REMOVAL CALCULATIONS

An average of 9 inches of unsuitable soils [top and subsoils] will be removed from the building area and replaced with good binding gravel resulting in the transport of 125 to 150 cubic yards of earthen materials to and from the site.

It should be expected that the materials to be removed will be utilized in the landscaping of other sites and be removed over an extended period of time.

### 3.9 PLANS

The Site Plan consists of one sheet and shows all visually apparent fixed features of the site on the date of survey [May 12, 2010] and the location of the subsurface sewage disposal system form record plans.

Large trees in the area of the proposed building are shown and the edge of bordering vegetated wetlands was demarcated by this office in preparation for the survey.

The Plan has been endorsed by a Registered Professional Land Surveyor and a Professional Engineer.

The Plan contains a Locus Map at the required scale to allow the site to be easily located. As noted on the Plan, the site is located in the Small Manufacturing Zoning District and the Groundwater Protection District # 3 Overlay District.

Relevant building offsets are shown on the Plan and distances to other site features can be obtained by scaling or provided by request.

Groundwater determinations were not made as it should be expected that the groundwater table is represented by the elevation of water in the stormwater management basins.

A Zoning Analysis block is contained on the plan and shows allowed/required, existing and proposed data. The proposed building is beyond the minimum yard setback requirements and is to be placed within an existing storage area and as a result there is no change between existing and proposed data except for the rear yard setback.

We show 12 parking spaces located along the front of the paved parking lot as the rear portion of the paved area is used for the temporary parking of trucks or for maneuvering

## CAPIZZI COMPANY NARRATIVE – 3/4

purposes. As there are less than 15 designated parking spaces the provision of an accessible space is not required. The parking lot has been shown to be of adequate capacity by over 20 years of experience.

Employees drive to work sites and often park their vehicles near the truck they are using that day to facilitate the transfer of clothes and lunches.

A detail showing the Designated Open Space Areas and the size of the areas is contained on the Plan.

The locations of existing signs are indicated on the Plan as is the small solid waste container existing on the date of survey.

The proposed building and required alterations have been purposefully located over 100 feet from the edge of bordering vegetated wetlands and to provide further protections an erosion and sediment control plan has been incorporated into the plan.

### 3.9.6 PHASING

The type of building has been chosen to allow its erection to occur prior to the onset of winter and all construction is to occur as one phase.

### 3.9.7 SITE UTILITIES

The site's utilities are limited to the front of the property and are shown based observable features and record plans.

Observable portions of the site's drainage system are shown with elevations determined by instrument surveys.

The utilities and stormwater management systems are removed from the area of construction.

The location of a small generator at the side of the main building is shown.

### 3.9.9 CONSTRUCTION DETAILS

A detail of the Dripline Recharge Trench is shown on the Plan and dimensions are given for the parking spaces on the paved area at the front of the property. The parking spaces are presently unmarked and given the use of the parking area there is no need to mark them.

## CAPIZZI COMPANY NARRATIVE – 4/4

### 3.9.10 LANDSCAPE PLANS

No alterations are proposed to the planted areas around the perimeter of the site and the proposed addition cannot be viewed from Main Street. The adjacent properties to the east, north and south are occupied by metal buildings and do not contain significant view points towards the proposed building.

### 3.9.11 BUILDING ELEVATIONS

A Plan prepared by the building's fabricator is attached.

### 3.9.12 FLOOR PLANS

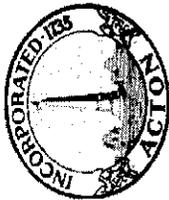
The proposed building is a 40 by 100 foot open structure to be utilized for vehicle and equipment storage and no additional parking spaces should be required. A building perspective prepared by the fabrication firm is enclosed.

The majority of the existing buildings are dedicated to vehicle, equipment and materials storage and building plans are not available.

The front building has a gross area of 5,250 square feet and the rear building 2,300 square feet for a total of 7,550 square feet. One space per 1,000 square feet of NET floor area is required for a building trade shop by 6.3.1.13 and the twelve spaces designated on the Plan exceed this requirement.

### 3.9.13 PLAN NOTES

Notes necessary to control construction and provide conformance with the requirements of a Special permit are contained on the Plan.



**Town of Acton**  
 472 Main Street  
 Acton, MA 01720  
 Telephone (978) 264-9622  
 Fax (978) 264-9630

Brian McMullen  
 Assistant Assessor

Locus: 820 MAIN ST  
 Parcel: C1-601

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
9 LEDGE ROCK WY	C5-38-1	REX LUMBER CO	REDMOND JENNINE M TRUSTEE	840 MAIN STREET	ACTON	MA	01720
1-3 REX LN	C5-49	REDMOND JAMES J JR TRUSTEE		7 LEDGE ROCK WAY REALTY T 5 LEDGE ROCK WAY	ACTON	MA	01720
840 MAIN ST	C5-50	REX LUMBER COMPANY INC		840 MAIN ST	ACTON	MA	01720
816 MAIN ST	C5-59	ACTON BLOCK COMPANY INC	C/O ROBERT MORAN	198 GREAT RD	ACTON	MA	01720
836 MAIN ST	C5-61	MUSHROOM INVESTMENTS LLC	C/O CONCORP INC	PO BOX 2766	ACTON	MA	01720
838 MAIN ST	C5-61-1	MUSHROOM INVESTMENTS LLC	C/O CONCORP INC	PO BOX 2766	ACTON	MA	01720
4 WHEELER LN	C5-62	JOHN J FLANNERY INC		544 MASSACHUSETTS AV	ACTON	MA	01720
6 WHEELER LN	C5-62-1	MURPHY GREG	MURPHY AMANDA	6 WHEELER RD	ACTON	MA	01720
9 WHEELER LN	C5-81	COTE QUENTIN P	MCEWEN KELLY A	9 WHEELER LN	ACTON	MA	01720
5 WHEELER LN	C5-81-1	KELLY ANDREW T	BROWN LISA KARIN	829 MAIN ST	ACTON	MA	01720
829 MAIN ST	C5-81-2	JOHNSON BRADLEY A	JOHNSON KATHY J	825 MAIN STREET	ACTON	MA	01720
825 MAIN ST	C5-81-3	DAWSON MICHAEL K	DAWSON DONNA M	821 MAIN ST	ACTON	MA	01720
821 MAIN ST	C5-81-5	SRIINIVASAN MADHAVAN	VENKATRAMAN SHANTI	P.O. BOX 2783	ACTON	MA	01720
815 MAIN ST	C5-94	CARR DAVID		617 MAIN ST	ACTON	MA	01720
817 MAIN ST	C5-94-1	GRIERSON EDWIN A	GAIL A	4 TILL DR	ACTON	MA	01720
4 TILL DR	C5-94-2	GUO WEI	SU QIBIN	6 TILL DR	ACTON	MA	01720
6 TILL DR	C5-94-3	LAI CHOUNG-HOUNG	LAI HUI	2 NORTHBRIAR RD	ACTON	MA	01720
2 NORTHBRIAR RD	C5-102-1	GILL MAX	GILL VERA	8 TILL DR	ACTON	MA	01720
8 TILL DR	C5-102-4	MUSACCHIO JOHN E	MUSACCHIO JOYCE B				
<b>MBTA</b>		<b>C/O TRANSIT REALTY ASSOCIATES LLC</b>	<b>ATTN: VANESSA MERRITT</b>	<b>77 FRANKLIN ST 9TH FLOOR</b>	<b>BOSTON</b>	<b>MA</b>	<b>02110</b>

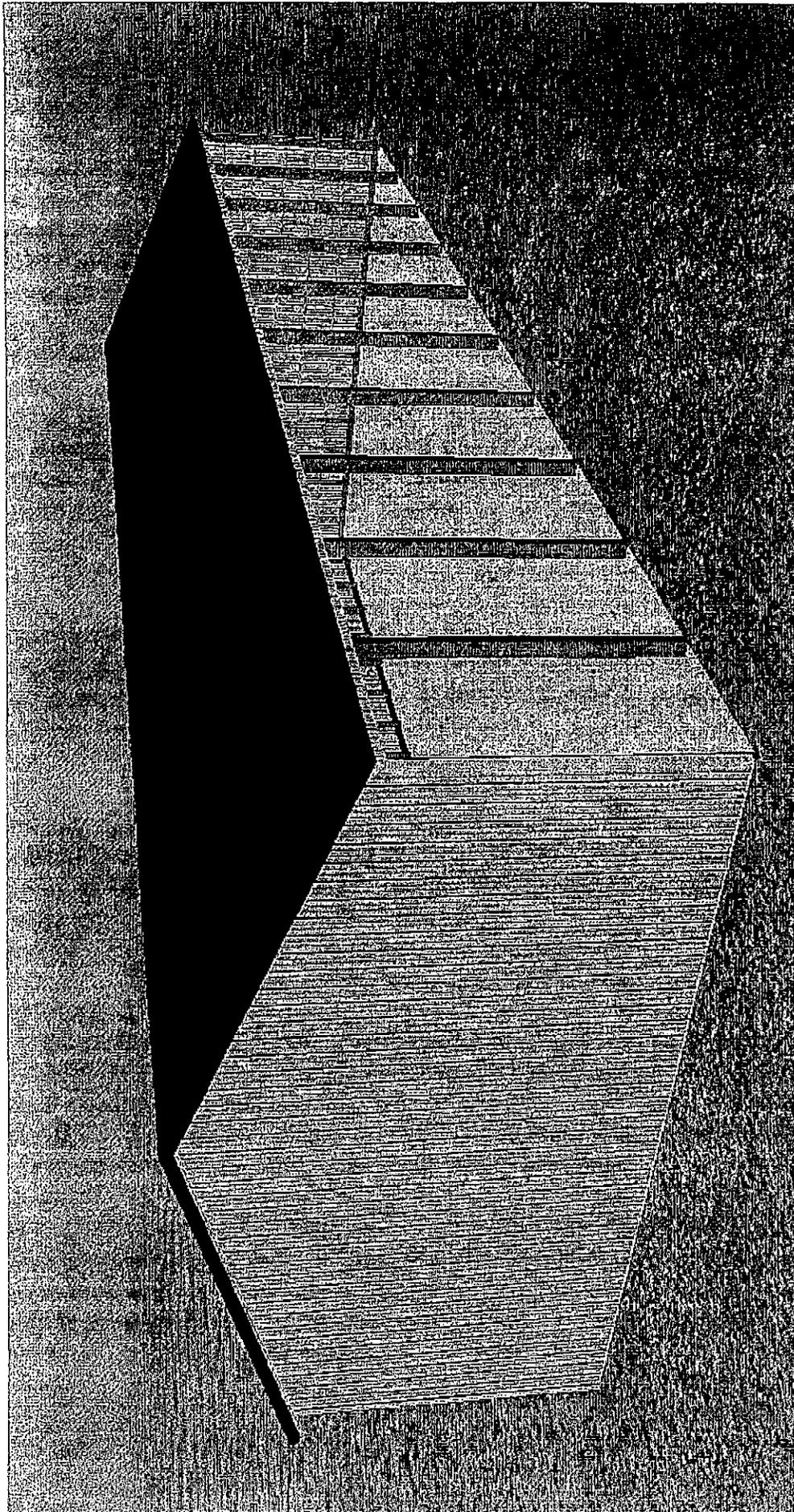
Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

**HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:**

Boxborough, MA 01729  
 Carlisle, MA 01741  
 Concord, MA 01742  
 Lowell, MA 01460  
 Salem, MA 01775  
 Sudbury, MA 01786  
 Westford, MA 01886

4-Jun-10

Kimberly Hoyt  
 Assessing Clerk  
 Acton Assessors Office





Acton Survey & Engineering, Inc.

P.O. Box 666 97 Great Rd. Suite 6  
Acton, MA 01720-0666  
(978) 263-3666 Fax (978) 635-0218  
Email: actonsurvey@verizon.net

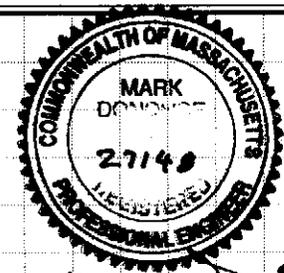
JOB CAPIZZI - 870 MAIN ST 5650

SHEET NO. 1 OF       

CALCULATED BY MTD DATE 6-3-10

CHECKED BY        DATE       

SCALE       



STORMWATER MANAGEMENT

4000 SF POLE BUILDING

GENERAL RUNOFF FROM AREA - "PUDDLES" ON GRAVEL PARKING AREA/ RECHARGED/ FLOWS TO SWM BASIN

VOLUMES OF RUNOFF

USE TR-55 EQ 2-1 - SOILS HYDRO GROUP A  
EXISTING WOODS FAIR - NEGATIVE STORAGE STORAGE - CN 36  
PROPOSED IMPERVIOUS CN = 98

YR	RAINFALL INCHES	PRE BLDG		POST		INCREASE VOL - CF
		DEPTH	VOL	DEPTH	VOL	
2	3.1	0	-	2.9	967	967
10	4.5	0	-	4.3	1433	1433
25	5.4	0.2	67	5.2	1733	1666
100	6.4	0.4	133	6.3	2100	1467

STORAGE CROSS - SECTION 1.5 SF - 180 LF TRENCH  
VOID STORAGE  
 $1.5 \times 180 \times 0.4 = 108 \text{ CF}$

RECHARGE SAND  $\rightarrow 8.27 \text{ IN/HR}$  PER STATE GUIDELINES

$\frac{8.27}{12 \text{ IN/FT}} \times 24 \text{ HR} \times 180 \text{ LF} \times 1.5 \text{ W} = 4467 \text{ CF}$

$4467 \text{ CF} \gg 1467 \text{ CF} - 108 \text{ CF}$  OK NO RUNOFF

NOTE

AREA OF SWM BASIN  $\approx 2750 \text{ SF}$



Form E

DEP File No. 85-701  
Applicant Capizzi Family Trust



**Order of Conditions  
Wetlands Protection Bylaw  
Chapter F**

From the ACTON CONSERVATION COMMISSION Issuing Authority

To Main Street Realty Trust same  
(Name of person making request) (Name of property owner)

Address 22 Pine Street, West Newton, MA 02465 Address \_\_\_\_\_

This Order is issued and delivered as follows:

- by hand delivery to person making request on Wendell Madland 4/6/00 (date)
- by certified mail, return receipt requested on \_\_\_\_\_ (date)

This project is located at 820 Main Street, Acton

The property is recorded at the Registry of Middlesex South

Book 1105 Page 34

Certificate (if registered) \_\_\_\_\_

The Notice of Intent for this project was filed on March 16, 2000 (date)

The public hearing was closed on March 29, 2000 (date)

**Findings**

The ACTON CONSERVATION COMMISSION has reviewed the above-references Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the ACTON CONSERVATION COMMISSION at this time, the ACTON CONSERVATION COMMISSION has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection under the Act (check as appropriate):

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Public water supply             | <input type="checkbox"/> Flood Control                      | <input type="checkbox"/> Land containing shellfish                 |
| <input checked="" type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries                                 |
| <input checked="" type="checkbox"/> Ground water supply  | <input checked="" type="checkbox"/> Prevention of pollution | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |

Total filing fee submitted under Acton Wetlands Protection Bylaw \$ 11.00

1-6

Therefore, the ACTON CONSERVATION COMMISSION hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The ACTON CONSERVATION COMMISSION orders that all the work shall be performed in accordance with the said conditions and with the Notice of Intent references above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

**General Conditions**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Act; or
  - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the ACTON CONSERVATION COMMISSION on the form at the end of this Order prior to the commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in the size bearing the words, "Massachusetts Department of Environmental Protection, File Number 85-701 .
10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.

**\*\* PLEASE READ THE FOLLOWING GENERAL CONDITIONS REQUIRED BY THE TOWN OF ACTON WETLANDS BYLAW \*\***

12. No work shall be undertaken until the Order of Conditions has been reviewed and is clearly understood by the Contractor or his agent. It is the Applicant's responsibility to see that the Contractor clearly understands all items herein.
13. This Order of Conditions shall apply to any successor in interest or successor in control.
14. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the Order and to require the submittal of any data deemed necessary by the Commission for that evaluations.

2-16

15. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of the facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.
16. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
17. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days.
18. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.
19. The Commission shall be notified in writing 10 days prior to the commencement of any site work. Failure to do so notify the Commission shall result in the issuance of an Enforcement Order.
20. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water directly or indirectly.
21. Erosion control measures consisting of staked haybales unless otherwise approved by the Commission shall be installed during the first phase of construction and the Commission shall be notified of their placement and no work shall begin before inspection by the Commission.
22. Any materials collected by the erosion control measures shall be removed and properly disposed of.
23. All work shall be completed as quickly as possible to minimize the duration of exposure of disturbed areas. If work is suspended for a significant period of time (i.e. as during winter months), then temporary stabilization methods must be employed and maintained during the period of inactivity.
24. No salt or other deicing chemicals shall be used on roadways and parking areas on the site.
25. This order applies only to the work described in the Notice of Intent and shown on the plans referenced in Condition 12. A Determination of Applicability Form must be filed for any additional work on site in areas governed by the Town of Acton Wetlands Protection Bylaw.
26. All disturbed areas shall be topsoiled six inches and seeded.
27. Violation of any condition of this Order may result in the issuance of an Enforcement Order. Such Enforcement Order, if issued, will require the immediate cessation of all work until a hearing is held; such hearing will be held not more than 10 days from the issuance of the Enforcement Order.
28. The work authorized hereunder by the Acton Wetlands Protection Bylaw shall be completed within three years from the date of this Order unless the Order is renewed prior to expiration.
29. A twenty-five (25) foot setback of natural vegetation shall be maintained up-gradient from the wetland.
30. No construction, either temporary or permanent shall occur within forty (40) feet of the edge of wetlands. This shall include driveways; roadways; residential, commercial or industrial structures, etc.
31. There shall be no use of fertilizers, pesticides, herbicides or chemicals of any kind within the forty (40) foot no construction zone.
32. There shall be no underground storage of gasoline, oil or other fuels or hazardous materials within the one-hundred (100) foot buffer zone.
33. The Commission reserves the right to impose additional conditions to mitigate any actual or potential impacts resulting from the permitted work.
34. The work shall conform to the following plans and special conditions:

3-6

**Plans:**

Title	Dated	Signed and Stamped by:	on file with:
USGS	1987		Acton Conservation
Proposed Tank Location	amended 2/2000	Acton Survey & Engineering	Acton Conservation

Special Conditions (Use additional paper if necessary)

1. The Applicant shall remove all debris and landscaping equipment to an area outside the 25' natural buffer (0-25'). This 25' natural buffer shall be enhanced with shrub species beneficial to wildlife, (i.e.: Highbush Blueberry). Planting plans shall be approved by the Conservation Administrator prior to installation.

(Leave Space Blank)

4-6

Issued by the ACTON Conservation Commission

Signature(s) James W. [unclear]

Bob D. [unclear] Matthew [unclear]

[unclear] [unclear]

[unclear] [unclear]

This Order must be signed by a majority of the Acton Conservation Commission.

On this 29th day of March, 2000, before me personally appeared Matthew [unclear], to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

Andrew [unclear] March 1, 2002  
Notary Public My Commission Expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the **ACTON CONSERVATION COMMISSION** prior to commencement of work.

To ACTON CONSERVATION COMMISSION Issuing Authority

Please be advised that the Order of Conditions for the project at 820 Main Street, Acton

File Number 85-701 has been recorded at the Registry of Middlesex South and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on \_\_\_\_\_ 19 \_\_\_\_.

If recorded land, the instrument number which identifies this transaction is DOCUMENT 1198986

✓ If registered land, the document number which identifies this transaction is \_\_\_\_\_

Signature [unclear] Applicant

5-6





# WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## A Applicant Information

From:

ACTON

Conservation Commission

The Notice of Intent for this project was filed on:

March 6, 2000

Date

For:

85-701

Project File Number

The public hearing was closed on:

March 29, 2000

Date

To:

Main Street Realty Trust

Applicant Name

22 Pine Street

Mailing Address

W. Newton,

City/Town

MA

02465

State

Zip Code

Title and Date of final Plans and Other Documents:

1. USGS

2. Proposed Tank Location, 1987 amended 2/2000

Acton Survey & Engineering

The project site is located at:

820 Main Street, Acton

10 F 14 202 P-100

City/Town

C-5

Pcl. 60

Assessors Map/Plan #

Parcel/Lot #

and the property is recorded at the Registry of Deeds for:

Middlesex South

1105

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County

Book

Page

Certificate (if registered land)

## B Findings

Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this commission finds that the area in which work is proposed is significant to the following interests of the Wetlands Protection Act (check all that apply):

- Public Water Supply
- Private Water Supply
- Groundwater Supply
- Flood Control
- Land Containing Shellfish
- Fisheries
- Storm Damage Prevention
- Prevention of Pollution
- Protection of Wildlife Habitat

Furthermore, this Commission hereby finds that the project, as proposed, is:  
(check one of the following boxes)

**Approved** subject to:

- the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. This Commission orders that all the work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



# WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## **B** Findings (cont.)

Denied because:

1. the proposed work cannot be conditioned to meet the performance standards set forth in the wetlands regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.

the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(b)(c).

### General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Act; or
  - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or

debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.

7. This Order does not become final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.

8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of the work.

9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection" [or, "MA DEP"] "File Number

85-701

Project File Number

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.

11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

12. The work shall conform to the following attached plans and special conditions:

Final Approved Plans (attach additional plan references as needed):

see page 1

Title

Dated

Signed and Stamped by

On file with

2-6



# WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## **B** Findings (cont.)

- 13. Any changes to the plans identified in Condition # 12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
- 14. The Agent or members of the Conservation Commission and Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
- 15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
- 16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall serve as the limit of work (unless another limit of work line has been noted in the plans of record) and be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
- 17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.

Special Conditions (Use additional paper if necessary)

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### Findings as to municipal law, bylaw, or ordinance

Furthermore, the

**ACTON**

*Conservation Commission*

hereby finds (check one that applies):

- that the proposed work cannot be conditioned to meet the standards set forth in a municipal law, ordinance, or bylaw, specifically

*Name and citation of municipal law, bylaw, or ordinance*

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

that the following additional conditions are necessary to comply with a municipal law, bylaw, or ordinance, specifically

*Name and citation of municipal law, bylaw, or ordinance*

The Commission orders that all the work shall be performed in accordance with the said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

Additional conditions relating to municipal law, bylaw, or ordinance:

- 1. The Applicant shall remove all debris and landscaping equipment to an area outside the 25' natural buffer (0-25'). This 25' natural buffer shall be enhanced with shrub species beneficial to wildlife, (i.e.: Highbush Blueberry). Planting plans shall be approved by the Conservation Administrator prior to installation.

3-6



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 - Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B Findings (cont.)**

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Date: March 29, 2000

This Order must be signed by a majority of the conservation commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate regional office of the Department of Environmental Protection.

Signatures:

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

On this 29th

day of March

Month 2000

Year 2000

before me personally appeared Matthew Luskman

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

[Signature]  
Notary Public  
March 1, 2002  
My commission expires

This Order is issued to the applicant as follows:

by hand delivery on [Signature]  
Date 4/10/00

by certified mail, return receipt requested, on \_\_\_\_\_  
Date

**C Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Appendix E: Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission and to the applicant, if he/she is not the appellant.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40 and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.

4-6



1 1 3 8 9 6 1

Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

# WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## D Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information shall be submitted to the

ACTON

*Conservation Commission*

on the form below, which must be stamped by the Registry of Deeds.

Detach on dotted line and submit to the Conservation Commission.

To: ACTON

*Conservation Commission*

Please be advised that the Order of Conditions for the project at 820 Main Street, Acton 85-701

*Project Location*

*DEP File Number*

has been recorded at the Registry of Deeds of

Middlesex South

*County*

and has been noted in the chain of title of the affected property in

Book

Page

in accordance with the Order of Conditions issued on

Date

If recorded land, the instrument number which identifies this transaction is

Instrument Number

If registered land, the document number which identifies this transaction is

Document Number

Signature of Applicant

DOCUMENT 1138961

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FORM 5

COMMONWEALTH OF MASSACHUSETTS

Bylaw File No. 75-127

D.E.Q.E. File No. 85-212

Location 820 Main Street

City/Town Acton

Filing Date March 26, 1987

*REG OWNER*  
Applicant Capizzi Family Trust II  
ORLANDO M. CAPIZZI

7498701

Order of Conditions  
Massachusetts Wetlands Protection Act, G.L. c. 131, s40  
Town of Acton Wetlands Protection Bylaw

From Acton Conservation Commission

To Capizzi Family Trust (Name of Applicant) SAME (Name of property owner)

This Order is issued and delivered as follows:

- by hand delivery to applicant, signature of applicant on original Order
- by certified mail, return receipt requested,  
Certified Mail # \_\_\_\_\_

This project is located at 820 Main Street, Acton, MA 01720

The property is recorded at the Registry of Deeds South Middlesex

Book 804 Page 17 *CIF 184767*

Certificate (if registered) N/A

The Notice of Intent for this project was filed on March 26, 1987  
(date)

The public hearing was closed on April 15, 1987 (date)

FINDINGS

The Acton Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Conservation Commission at this time, the Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

- |   |  |
|---|--|
| <input type="checkbox"/> Public water supply      | <input type="checkbox"/> Storm damage prevention |
| <input type="checkbox"/> Private water supply     | <input type="checkbox"/> Prevention of pollution |
| <input type="checkbox"/> Ground water supply      | <input type="checkbox"/> Wildlife                |
| <input checked="" type="checkbox"/> Flood control | <input type="checkbox"/> Fisheries               |

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FURM 5

D.E.Q.E. File No. 85-212

Location 820 Main Street

Bylaw File No. 75-127

749870

Therefore, the Acton Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Acton Conservation Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Bylaw; or
  - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, leath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts or parts of any of the foregoing.

FORM 5

D.E.Q.E. File No. 85-212

Location 820 Main Street

Bylaw File No. 75-127

749870

7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such appeal has been filed, until all proceedings before the Court have been completed.
8. No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Acton Conservation Commission on the form at the end of this Order prior to commencement of the work.
9. No work shall be undertaken until the Final Order has been reviewed and signed by the Contractor or his agent. Using the form provided at the end of this Order, the acknowledgement shall be submitted to the Acton Conservation Commission 10 days prior to commencement of work.
10. Where the Department of Environmental Quality Engineering is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Mass DEQE , File Number 85-212".
12. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
13. The work shall conform to the following plans and special conditions:

Plans:

- A Site Plan dated March 23, 1987
- B Locus Plan dated March 23, 1987
- C Drain Calcs dated March 23, 1987

FORM 5

D.E.Q.E. File No. 85-212

Location 820 Main Street

Bylaw File No. 75-127

749870

14. This Order of Conditions shall apply to any successor in interest or successor in control.
15. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with this Order and to require the submittal of any data deemed necessary by the Commission for that evaluation.
16. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of the facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.
17. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
18. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days.
19. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.
20. The Commission shall be notified in writing 10 days prior to commencement of any site work. Failure to so notify the Commission shall result in the issuance of an Enforcement Order.
21. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water directly or indirectly.
22. Erosion control measures shall be installed during the first phase of construction and the Commission shall be notified of their placement and no work shall begin before inspection by the Commission.
23. Any materials collected by the erosion control measures shall be removed and properly disposed of.
24. All work shall be completed as quickly as possible to minimize the duration of exposure of disturbed areas. If work is suspended for a significant period of time (i.e. as during winter months), then temporary stabilization methods must be employed and maintained during the period of inactivity.
25. Minimal salt and deicers shall be used only as a mixture within the sand to be applied to the road. Only amounts of salt and deicers to prevent the freezing of the sand shall be used.

FORM 5

D.E.Q.E. File No. 85-212

Location 820 Main Street

Bylaw File No. 75-127

26. This Order applies only to the work described in the Notice of Intent and shown on the plans referenced in Condition 13. A Determination of Applicability Form must be filed for any additional work on site in areas governed by the Town of Acton Wetlands Protection Bylaw.
27. All disturbed areas shall be topsoiled six inches and seeded.
28. Violation of any condition of this Order may result in the issuance of an Enforcement Order. Such Enforcement Order, if issued, will require the immediate cessation of all work until a hearing is held; such hearing will be held not more than 10 days from the issuance of the Enforcement Order.
29. The work authorized hereunder by the Acton Wetlands Protection Bylaw shall be completed within one year from the date of this Order unless the Order is renewed prior to expiration.

749870

749870

FORM 5

D.E.Q.E. File # 85-212

Location 820 Main Street

Bylaw File # 75-127

Issued by Acton Conservation Commission

Signatures:

*James D. Weston* *Robert Young*  
*Julie McCaughy* \_\_\_\_\_  
*Carol M. Blace* \_\_\_\_\_

This Order must be signed by a majority of the Conservation Commission.

On this 7th day of May 19 87, before me personally appeared Carol M. Blace, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

*Debra Dring* My commission expires 2/26/93  
Notary Public

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Quality Engineering to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department within ten days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant. The above mentioned persons are also notified of their right to appeal, under the Bylaw, according to the provisions of the Massachusetts General Laws. A copy of the appeal shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

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DOCUMENT NO 749870

SO. MIDDLESEX LAND COURT	
REGISTRY DISTRICT	
RECEIVED FOR REGISTRATION	
AT	11 M 25 M 17M
JUL - 25 1981	
NOTE ON CRT. NO.	134267
REG. NO.	809
PAGE	13
CLERK	ALAN J. LAMPANELLI
	ASSISTANT RECORDER

PA 20-50

NAME Joseph Rossi  
 2120 Commonwealth Ave  
 Boston, MA 02166  
 CITY ON 10/78  
 904-4472

7-7

A True Copy. *Witness:*  
Cornelia O. Hulser  
TOWN CLERK ACTON, MASS.

April 26, 1988

DECISION

Site Plan Special Permit  
Capizzi & Company, Inc., 820 Main Street  
Application #11/25/87-292 (WEEKS)  
Plan File #3128

DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Capizzi & Company, Inc. (hereinafter the Petitioner), for property located at 820 Main Street, Acton, Massachusetts owned by Capizzi Family Trust. Said property is shown on Acton Town Atlas map #C-5, parcel #60.

This decision is in response to an application submitted to the Board on November 25, 1987 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to implement several improvements on the site including the construction of a second storage building and of an addition to the existing office/workshop building, and to use such for vehicle and equipment storage and for new office space respectively under Section 3.6.3 of the Bylaw.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order on Tuesday, February 2, 1988 at 7:45 P.M., at Room 114 of the Acton/Boxborough Regional Junior High School, Acton, Massachusetts. Board members William Weeks, Dore' Hunter, Charles Kostro, Jr. and Nancy Tavernier were present throughout the proceedings. Board member Don Gilberti arrived during the hearing.

The Petitioner was represented by John E. Dunphy, Jr., Acton Survey & Engineering, Inc.. The record of the proceedings and submissions on which this permit is based may be referred to in the office of the Town Clerk or the office of the Board of Selectmen.

Submitted for the Boards deliberation, prior to the close of the hearing, were the following exhibits:

- EXHIBIT 1 A plan entitled "Site Development Plan of land in Acton, MA prepared for Capizzi & Co., Inc., 820 Main Street, Acton, MA, drawn by Acton Survey & Engineering, 277 Central Street, Acton, MA, dated March 23, 1987, modified September 28, 1987 and November 17, 1987, said plan consisting of the following sheets: Floor Plan, Side View & Front & Rear Views drawn by R.L. Jeanotte, Inc., dated January 12, 1987 and Planting Plan dated July 14,

Record Owner: ORLANDO P. CAPIZZI, TR  
CAPIZZI FAMILY TRUST II

07/134767  
Bk 804 P17

1-10

1987 drawn by Peter R. Spellmeyer, Registered Landscape Architect.

**EXHIBIT 2**

A properly executed "Application for Site Plan Approval" dated November 25, 1987 including the following submissions:

1. Letter from Roland Bartl to Acton Survey & Engineering dated 11/20/87.
2. Re-application review letter dated 10/13/87.
3. Capizzi response letter dated 11/18/87.
4. List of requested waivers from the Site Plan Special Permit Rules & Regulations.
5. Regulation 5.2 written statement.
6. Certified List of Abutters dated 3/18/87 signed by Mark Mazur.
7. Copy of most recent recorded plan.
8. Drainage calculations.
9. 1200 scale locus map.
10. Board of Health "As-built plan"
11. Conservation Commission Order of Conditions.
12. Department of Army Permit.
13. DWPC waiver of Water Quality Certification.
14. Cover letter to Department of Army re: Water Pollution Control waiver letter.

**EXHIBIT 3**

Memo from Site Plan Coordinator to Board of Selectmen; Memo from the Building Commissioner to the Town Manager; Engineering Administrator to Town Manager; Health Director to Site Plan Coordinator; Conservation Administrator to Site Plan Coordinator; Municipal Properties Director to Site Plan Coordinator. (apply to the case in question).

Based upon its review of the exhibits and the record of the proceedings, the Board found and concluded that:

1. The site is located within the General Industrial District. The proposed use is allowed in this district.
2. The site is located within the Aquifer Fringe Area of the Aquifer Protection Overlay District and within the Aquifer Protection Area as defined by Lycott Environmental Research, Inc.. All uses and improvements on the site should be conducted and designed in a manner that will provide maximum protection to the groundwater resources.
3. The proposed construction activity would occur partially within a wetland. The Plan provides for wetland replacement. The Conservation Commission has issued an Order of Conditions regarding this work.
4. An existing wall mounted sign is to remain. The Bylaw requires a license for outdoor signs.

5. The Plan shows a walkway from the driveway to the entrance of the new building. It is unclear if this walkway is designed for handicapped use. The building must be handicapped accessible.
6. The Plan shows 36.1% open space, slightly more than the minimum requirement of 35%. The designated open space should be preserved and the site should be maintained to minimize the visual impact from Main Street.
7. The Plan proposes storm drain pipes from the pavement to discharge into a proposed wetlands filter. The drainage system should be designed to minimize erosion and provide optimum protection to the groundwater resources.
8. The existing 2,000 Gallon underground storage tank is approximately 20 years old. It has not been tested for several years. The tank could pose a serious threat to the groundwater resources. The Board welcomes the Petitioner's intent to replace it.
9. Significant amounts of fertilizers and pesticides are stored on the site. They should be stored indoors in a safe location.
10. The Petitioner estimates that the amount of oil changed on vehicles and equipment is approximately 130 Gallons per year. This does not warrant the installation of a gas trap in the building. The Petitioner should make sure that all waste oil is stored and disposed properly.
11. Currently a private well is used on the site. It is the Board of Health's policy that new construction must be serviced by public water if such service is available. A water main exists on Main Street. The continued use of the private well for the purpose of outdoor watering and misting of landscaping material is appropriate and economical.
12. The Board of Health found the design and the maintenance of the septic system inadequate.
13. The existing fire alarm system is connected to a private alarm service in Portsmouth, New Hampshire. The petitioner would like to maintain this system. The Acton Fire Department recommends the installation of an alarm master box that is connected to the Fire Department. This would shorten the response time in case of an emergency.
14. Acton's sidewalk master plan calls for a sidewalk along Main Street.
15. An existing antenna on the site exceeds the height limitation of the Bylaw. However at the time of its installation it was in conformance with the existing

- regulation at that time.
16. The applicant requested waivers from Sections 3.5.3, 5.2.6, 5.7 and 5.8 of the Rules & Regulations. The requested waivers are granted.
  17. The Plan as amended herein and as provided for in the conditions protects the Town and the neighborhood against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment.
  18. The Plan as amended herein and as provided for in the conditions provides for convenient and safe vehicular and pedestrian movement to and from site as well as within the site, provides for adequate methods of waste disposal and for parking and loading facilities.
  19. The granting of a Site Plan Special Permit for the Plan as amended herein and as provided for in the conditions will not derogate from the intent of the Bylaw to limit the adverse effects of the use and development of land on the surface and groundwater resources of the Town of Acton.

THEREFORE, the Board voted to GRANT the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations:

1. PLAN MODIFICATIONS: Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not issue any building permit nor shall he permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit any construction on the site:
  - 1.1 A handicapped ramp for the walkway to the proposed addition, or an indication that the walkway enters the driveway at grade.
  - 1.2 Where storm drain pipes discharge into wetlands filter, show metal flared ends and stone rip-rap.

- 1.3 Instruct on the Plan, that if sufficient organic soil (muck) is not available to line the proposed wetlands filter to a depth of 2 feet, a silt liner shall be used for the first foot.
- 1.4 Show on the Plan that the 2000 Gallon u.g. storage tank is to be removed. Show location of replacement tank.
- 1.5 Show locations of pesticide, fertilizer and waste oil storage areas. All must be indoors.
- 1.6 Show location of proposed water line.
- 1.7 If the Board of Health requires the redesign of the septic system, show the changes on the Plan.
- 1.8 If the Petitioner chooses to tie into the Acton Fire Department alarm system, show master box and fire alarm conduit.

2. CONDITIONS: The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions shall render the permit granted herein to be null and void and without force and effect.

- 2.1 ADDITIONAL REGULATORY APPROVALS: Prior to the issuance of a building permit or the start of any construction activity on the site, the Petitioner shall demonstrate to the Building Commissioner that the following additional regulatory approvals have been issued and that all restrictions and conditions of such approvals have been complied with:
  - 2.1.1 Special Permit from the Board of Health for construction in the Aquifer Protection Area.
  - 2.1.2 Approval of the septic system from the Health Department.
  - 2.1.3 A Hazardous Materials Storage Permit from the Board of Health (Pesticides).
  - 2.1.4 A Flammable Storage Licence from the Board of Selectmen (U.g. tank replacement).
  - 2.1.5 A Sign Licence renewal from the Building Commissioner.

2.2 LETTERS OF AGREEMENT: Prior to the issuance of a building permit or the start of any construction activity on the site the Petitioner shall submit, for the written approval of the Board, the following letters of agreement:

2.2.1 TRAFFIC: A letter of agreement stating that at such time as traffic conditions on Main Street, in the opinion of the Board, reach levels that constitute a hazard to the citizens of the Town of Acton or others, the Petitioner or the owner of the property will contribute (on a pro rata basis) a fair share toward a traffic study to be conducted at the direction of and to the satisfaction of the Board, focused on alleviating the problem. The Petitioner's share shall be based on metering of traffic to and from the subject property. The Petitioner herein shall agree to assume all costs necessary and associated with the metering of traffic associated with the subject property. Furthermore, the letter shall express the agreement that the Petitioner or the owner of the property will contribute, according to the established pro rata basis, a fair share towards mitigation measures recommended in the traffic study.

2.2.2 MONITORING WELLS: A letter of agreement stating that at such time and in such quantity as the Board may designate, the Petitioner or the owner of the property will provide up to three (3) monitoring wells for the purpose of monitoring the general quality of groundwater in the area of the subject site and providing an early warning of potential problems. Such wells shall be installed in accordance with the directions and specifications of the Board. The Petitioner shall agree to assume all costs necessary for and associated with the installation of such monitoring wells (not in excess of \$2,000 per well at 1988 prices plus the standard adjustments for price inflation) and to provide the necessary easements and access rights to the Town of Acton and the Acton Water District in order to facilitate the taking of water samples for analysis.

2.2.3 SIDEWALK: A letter of agreement stating that at such time as the Board may designate the Petitioner or the owner of the property will

fully cooperate with the installation of a sidewalk along either side of Main Street and will at the direction of the Board either install a sidewalk at his or her own expense or contribute to the Town the sum of money equivalent to the cost of the sidewalk installation along the entire frontage of the property (not in excess of \$30.- per linear foot at 1988 prices plus the standard adjustments for price inflation).

- 2.3 OUTDOOR STORAGE: Outdoor storage of construction and landscaping materials, excepting nursery stock, shall occur only in the area behind the building and the parking lot.
- 2.4 UNDERGROUND STORAGE TANK: Concurrently with the work on the site, the existing underground storage tank shall be removed or replaced. The removal of the tank shall be scheduled with the Acton Fire Department and the Acton Health Department (notification at least 24 hours in advance required) and the tank shall not be removed unless a representative of the Town is present for site and tank inspection. No Occupancy Permit shall be issued prior to the removal of the said tank.
- 2.5 COMPLIANCE OF OUTDOOR LIGHTING FACILITIES: Prior to the installation of any outdoor lighting facilities, the Plan shall be inspected by the Building Commissioner to determine the compliance of said facilities with the requirements of the Bylaw. Should any or all of the outdoor lighting facilities shown on the Plan, installed or intended to be installed fail to comply with the requirements of the Bylaw, the Petitioner shall cause such facilities to comply with the Bylaw requirements at his/her sole expense.
- 2.6 CERTIFICATE OF USE AND OCCUPANCY: No building or structure authorized by this permit shall be occupied or used, and no activity, except the construction activity authorized by this permit, shall be conducted on the site until a Certificate of Use and Occupancy has been issued by the Building Commissioner.
- 2.7 VIOLATION OF CONDITIONS: Violation of any of the conditions of this site plan decision shall be grounds for revocation of this Site Plan Special Permit, or of any building or occupancy permit granted hereunder. In case of any violation of the continuing obligations of this permit, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation and to enforce the conditions of this permit. The Town may enforce compliance with the conditions of this permit

by an action of injunctive relief before any court of competent jurisdiction. The owner agrees to pay the Town for the enforcement of the conditions of this permit.

3. LIMITATIONS: The authority granted to the Petitioner by this permit is limited as follows:

3.1 APPLICABILITY OF PERMIT: This permit applies only to the site which is the subject of this petition. All construction to be conducted on the site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.

3.2 LIMITATION OF FURTHER DEVELOPMENT: There shall be no further development or subdivision of this site without written consent of the Board.

3.3 OTHER PERMITS OR APPROVALS: This decision applies only to the requested Special Permit. Other permits or approvals required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.

3.4 SIGNS: No approval of any indicated signs or advertising devices is implied by this decision.

3.5 BYLAW COMPLIANCE: The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all inclusive or to negate the remainder of the Bylaw.

3.6 AMENDMENT OF PERMIT: The Board hereby reserves its powers to modify or amend the terms and conditions of this Special Permit upon its own motion or on the application of the owner, lessee, or mortgagee of the premises. The Board further reserves its powers to amend this permit without a new public hearing provided the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw and with the terms of this permit.

3.7 LAPSE OF PERMIT: This Site Plan Special Permit shall expire on April 26, 1990 if a substantial use thereof has not commenced sooner except for good cause or if construction has not begun by said date except for good cause. Any request for an extension of the time limitation set fourth herein must be made in writing to the Board at least thirty (30) days prior to said expiration date and the Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant any extension as herein provided unless it finds that the use of the property in question or construction on the site has not begun except for good cause.

3.8 **APPEALS:** Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within twenty (20) days after the filing of this decision with the Acton Town Clerk.

Witness our hand this 26th day of April, 1988.

*William F. Weeks*  
William F. Weeks, Chairman

I, Ann Simeone, hereby certify that this is a true copy of the decision of the Board of Selectmen.

4/26/88  
Date

*Ann Simeone*  
Ann Simeone, Selectmen's Secretary

April 27, 1988  
Date filed with Town Clerk

*Judith Belbin*  
for Cornelia O. Huber, Town Clerk

✓ TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the decision of Capizzi & Company, Inc., has passed and there have been no appeals made to this office.

June 25, 1988  
Date

*Cornelia O. Huber*  
Cornelia O. Huber, Town Clerk

Copy sent to:

- Petitioner - Certified Mail #
- Board of Health
- Planning Board
- Conservation Commission
- Board of Appeals
- Town Engineer
- Building Commissioner
- Board of Assessors
- Town Clerk
- Fire Department
- Planning Boards - Littleton, Westford, Maynard, Carlisle, Concord, Boxborough, Stow, Sudbury

7 8 2 1 5 9 782156

DOCUMENT 782156

ON 09/01/88 AT 09:01:16 20.00  
SO. MIDDLESEX LAND COURT  
REGISTRY DISTRICT  
RECEIVED FOR REGISTRATION  
NOTED ON:  
CERT 0134767 BK 804 PG 17

Joseph Rossi 964-4472  
NAME  
2120 Commonwealth Ave  
STREET ADDRESS  
Newton MA 02466  
CITY OR TOWN

Entered by J. Solano  
Checked by MCDERMOTT

10-1



2005 01384175  
 Bk: 1105 Pg: 34 Cert#: 194984  
 Doc: LEASE 08/11/2005 03:46 PM

*LSE*

**NOTICE OF LEASE AGREEMENT**

In accordance with the provisions of M.G.L. Ch. 183, S. 4, as amended, notice is hereby given of the following described lease:

**PARTIES TO THE LEASE:**

LESSOR: Orlando P. Capizzi, Trustee of the Main Street Realty Trust, under a declaration of trust dated March 2, 1992, and filed as document number 890853 under certificate of title number 194984 in Registration Book 1105, Page 34, in the Land Court Division of Middlesex County, with its mailing address located at 820 Main Street, Acton, Massachusetts, 01720, Massachusetts.

LESSEE: Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, with its principal office located at 180 Washington Valley Road, Bedminster, New Jersey 07921, hereinafter designated LESSEE.

**DATE OF EXECUTION OF LEASE AGREEMENT:** July 26, 2005

**DESCRIPTION OF LEASED PREMISES:** LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the Property), located at 820 Main Street, Acton, Massachusetts, 01720, said portion being described as an approximately forty (40) foot by sixty (60) foot parcel containing approximately 2,400 square feet on LESSOR's Property, which Property is shown on the Town of Acton Tax Map Number C-5 as Lot 60, and which Property is further described in a deed dated November 2, 1992, filed as document number 890851 under Certificate of Title number ~~194984~~ 194984 at Registration Book ~~804~~ 1105, Page ~~17~~ 34 in the Land Court Division of Middlesex County, together with the non-exclusive right for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for parking of several vehicles adjacent to LESSEE's demised premises, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along a twelve (12) foot wide right-of-way extending from the nearest public right-of-way, Main Street, to the demised premises, said demised premises and rights-of-ways for access and utilities and adjacent parking areas being substantially as described herein (hereinafter collectively referred to as the "Premises") and further described in Exhibit "A" attached hereto and made a part hereof.

*part 10 + 14  
 book 902  
 page 100*

In the event any public utility is unable to use the aforementioned right-of-way, the LESSOR hereby agrees to grant an additional right-of-way either to the LESSEE or to the public utility at no cost to the LESSEE.

*order of court  
 \* 890852*

**TERM(S) OF LEASE:** This Agreement shall be effective as of the date of execution by both parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date, which is defined as the first (1st) day of the month following the date this Agreement is executed by the parties or the first (1st) day of the month following the date LESSEE is granted a building permit by the governmental agency charged with issuing such permits, whichever event occurs last.

This Agreement shall automatically be extended for four (4) additional five (5) year terms unless the LESSEE terminates it at the end of the then current term by giving the LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

**RIGHTS OF EXTENSIONS:** If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least six (6) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of such term.

**RIGHTS UPON SALE:** Should the LESSOR, at any time during the term of this Agreement, decide to sell all or any part of the Property to a purchaser other than LESSEE, such sale shall be under and subject to this Agreement and LESSEE's rights hereunder, and any sale by the LESSOR of the portion of this Property underlying the right-of-way herein granted shall be under and subject to the right of the LESSEE in and to such right-of-way.

The Lease Agreement is on file with the LESSOR and LESSEE at the addressed listed above.

This Notice of Lease has been executed pursuant to the Lease Agreement for recording purposes only, does not purport to include all the provisions of the Agreement, and is not intended nor deemed to amend, supplement or vary the terms and provisions of the Lease Agreement. In the event of any conflict between the provisions of this Notice of Lease and the provisions of the Lease Agreement, the provisions of the Lease Agreement shall control.

**END OF TEXT; SIGNATURES OF THE PARTIES APPEAR ON THE NEXT TWO PAGES**

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR: Orlando P. Capizzi, Trustee of the Main Street Realty Trust, u/d/t dated March 2, 1992

BY: [Signature]

PRINT NAME: ORLANDO P. CAPIZZI

TITLE: Trustee

DATE: 5/13/05

WITNESS: [Signature]

WITNESS NAME: Wayne Pastel

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss

May 13, 2005

On this 13<sup>th</sup> day of May, 2005, before me, the undersigned notary public, personally appeared \_\_\_\_\_, Orlando P. Capizzi, Trustee of the Main Street Realty Trust, proved to me through satisfactory evidence of identification, which were MA Driver's license (identify type of evidence), 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.

[Signature]  
Notary Public Wayne Pastel  
My commission expires: 2/26/07

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSEE: Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless

By: [Signature]

Print Name: David R. Heverling  
Area Vice President

Title: Network  
Northeast Area  
Data: \_\_\_\_\_

Date: 7-26-05

Witness: [Signature]

Witness Name: Diane Gazzola

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss 7-26, 2005

On this 26 day of July, 2005, before me, the undersigned notary public, personally appeared David R. Heverling, Vice President, Network, Northeast Area, of Bell Atlantic Mobile of Massachusetts Corporation, Ltd., proved to me through satisfactory evidence of identification, which were personally known (identify type of evidence), 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.

[Signature]  
Notary Public  
My commission expires: Nov 13, 2009

Diane Gazzola  
Notary Public  
My Commission Expires  
November 13, 2009

Exhibit A

See Lease Exhibits L-1 and L-2 prepared by Bay State Engineering, dated March 1, 2005, with a final revision date of April 29, 2005, showing LESSEE's Premises.

part lot 14

book 802 page 100

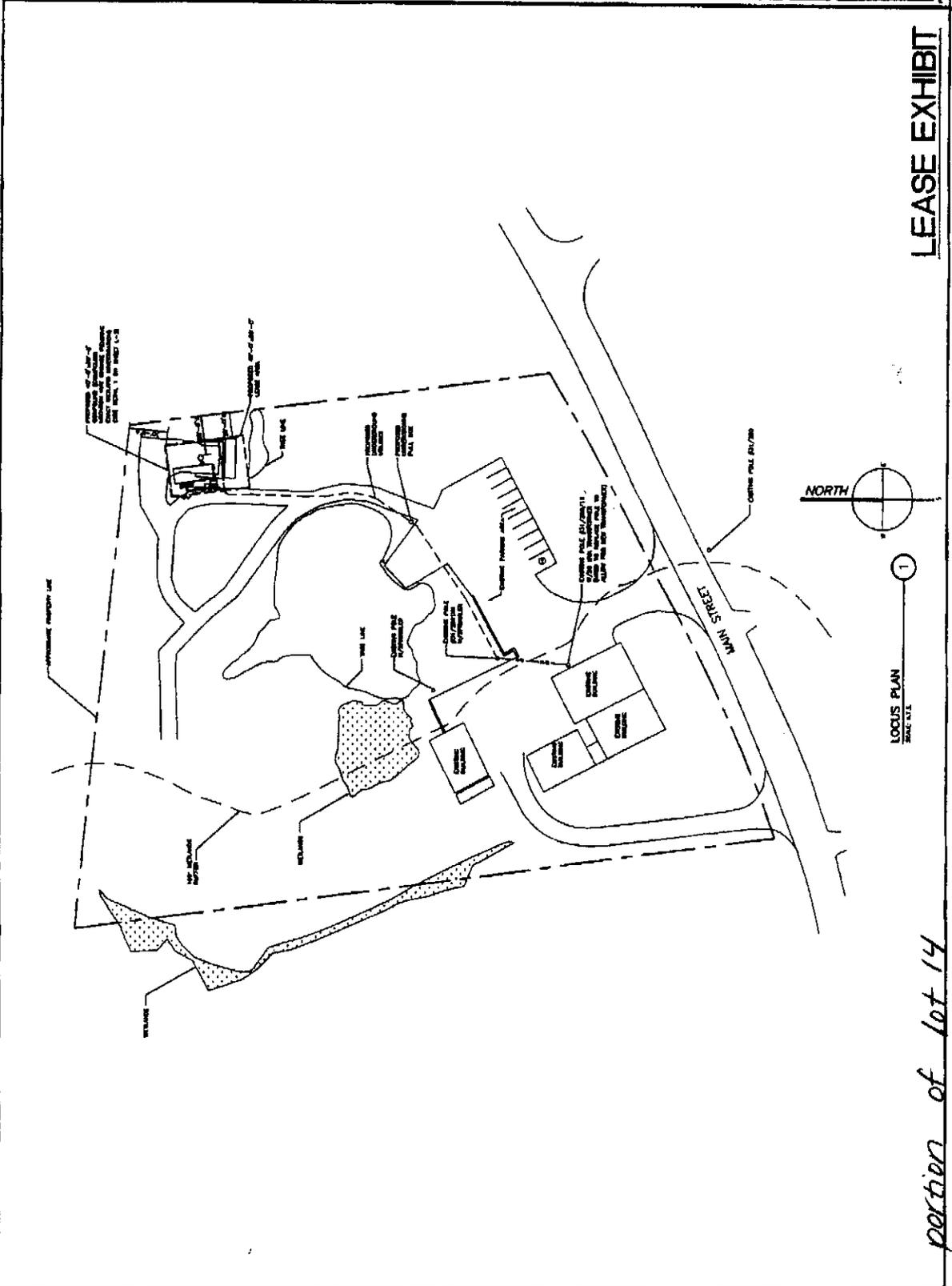
plan no. 6327F

certificate 194984

book 1105 page 34

# EXHIBIT A

		<b>LOCUS PLAN</b> DATE: 10/27/78 DRAWN BY: J.M.B. CHECKED BY: J.M.B. SCALE: AS SHOWN SHEET NO. 1 OF 1		PROJECT NO. 78-101 DRAWING NO. 101-101-1		CAPTIZ YONER HELD ACTION MA 0720		<b>L-1</b> SHEET 1 OF 1	
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DOCUMENT 01384175

Southern Middlesex LAND COURT  
REGISTRY DISTRICT

RECEIVED FOR REGISTRATION

On: Aug 11, 2005 at 03:46P

Document Fee: 75.00  
Receipt Total: \$150.00

CERT: 194984 BK: 01105 Pg: 34

