

Project No. LYNF-0098



December 4, 2020

Emilie Cademartori  
Conservation & Planning Director  
Lynnfield Conservation Commission  
55 Summer Street  
Lynnfield, MA 01940

Subject: 2 Broadway Review of Request for a Certificate of Compliance Response  
DEP File Number: 209-0413

Dear Commission Members,

On December 22, 2005 a Notice of Intent application was submitted for work to be done at 2 Broadway, Lynnfield, MA. On August 1, 2006 an Order of Conditions, (OOC), was issued approving the project. The OOC was recorded at the Southern Essex Registry of Deeds in Book 25963, Page 50 on August 7, 2006. A request for extension of the OOC was granted on June 30, 2009 and subsequently recorded at the Essex South Registry of Deeds (ESRD) under Book 28854, Page 140. This extension was valid until August 1, 2012. Another request for extension of the OOC was granted on July 19, 2016 and subsequently recorded at the ESRD under Book 25237, Page 258. This extension was valid until August 1, 2019. An Insignificant Change Letter was also used by the Lynnfield Conservation Commission (LCC) on August 25, 2016. A final request for extension of the OOC was granted on July 16, 2019, and was subsequently recorded at the ESRD under Book 37712, Page 206. On September 16, 2019 an Amended Order of Conditions was issued by the LCC and recorded at the ESRD under Book 37894, Page 95, which included the building change.

Please accept this letter as a response to comments issued by Linden Engineering Partners, LLC in response to a Certificate of Compliance Request for DEP File #: 209-0413, 2 Broadway, Lynnfield, MA.

1. The Form 8a has been revised to include a reference to the additional changes. The Form 8a only requests references to the Orders of Conditions, however the other additional references are now mentioned in the introductory paragraph above as well.
2. Additional comments were provided in the letter addressed to the Commission.

3. Portions of the As-Built plan have been revised to appear clearer, especially the utility and drain text.
4. There are no surveyed elevations associated with the Atlas drainage system to the west of the building. Our surveyor's staked out the location of the system and also confirmed the bottom of system elevation met the elevation on the approved plan. Contours and spot elevations on the plan are on the binder course pavement and not on the finished course; please see Note #5.
5. A benchmark has been added to the As-built plan in the bottom left corner of the plan view.
6. Photographs from our most recent site visit to the project site are now attached.
7. Our office will be staking out the location for these markers, spaced at 50 foot intervals, along the limit of work. Marker locations will be added to the As-built plan once installed.
8. We agree with this observation, and it was noted in our most recent monitoring report. In speaking with the applicant, this will be resolved in the spring along with comment #9 and #10.
9. Please see response to comment 8. This is a relatively small area beyond the retaining wall that has been well compacted and does not pose much erosion risk at this time. Erosion controls below the wall could stay in place until this work is completed.
10. Evergreen trees will be replaced while comments #8 and #9 are addressed in the spring to ensure long-term viability.
11. We would argue that >80% coverage has been achieved (please see attached photos), however additional fertilizer and seed can be placed in the spring when comments 8-10 are addressed.
12. According to the applicant, the wall was moved to ensure the Atlas system could also fit along the wall and was not negatively impacted long term. The portion of buffer zone where this was moved to was an area of extensive historical fill, therefore our belief is that although the wall was moved slightly, there should not be any long term negative impacts as a result. Additionally, at its furthest point, the wall is 4' closer to the edge of wetland than what was proposed.
13. We have attached a picture of the boulders below the level spreader in this location. Boulders located below this level spreader appear to have been existing

prior to construction, as there are many along the stream bank. The level spreader was built in a slightly different orientation compared to what was approved, but is in the same general location.

14. According to the applicant, the boulders were footed approximately 4' below grade. As the walking bridge was not built as originally designed, a wide beam was not used for support. The beam and ADS pipe will be strapped in to help ensure longer-term stability.
15. As there was only minor landscaping (arborvitae plantings) on the abutting property within the buffer zone, it was not reviewed and approved by the Lynnfield Conservation Commission under requirements of Conditions 14 & 31 of the Amended OOC.
16. No work was conducted in the vicinity of these pipes according to the applicant and contractor.
17. Yes, it is for irrigation purposes only. The location of the well has been added to the As-Built plan.
18. Yes, this easement is in place. A copy of the recorded easements are attached. These were provided to the LCC prior to construction.
19. Yes, this easement is in place. A copy of the recorded easements are attached. These were provided to the LCC prior to construction.
20. Yes, these dual 24" drain lines were video inspected on 12/8/20 by Rapid Flow Inc. No issues associated with the drain pipes were observed and are flowing without any restriction.
21. The stormwater management systems were cleaned and vacuumed on 12/8/20 by Rapid Flow Inc. These will be filed with the LCC once received from the contractor.
22. Rapid Flow Inc. is contractor to complete yearly inspections of the stormwater management system. Their contact information is noted below:

Rapid Flow Inc.  
781-289-7106  
[rapidflowinc@gmail.com](mailto:rapidflowinc@gmail.com)

23. According to the applicant, maintenance of the off-site forebay and detention based has not been completed at this point. Both areas appear in good condition, however.

We look forward to presenting the response to the Certificate of Compliance review to you at your upcoming meeting. If you have any questions regarding this information please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Richard Williams', with a long horizontal flourish extending to the right.

Richard Williams, P.E.  
Principal, Williams & Sparages, LLC

Cc: Gregg Monastiero

Enclosures



**WPA Form 8A – Request for Certificate of Compliance**

209-413

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

Provided by DEP

**A. Project Information**

**Important:**

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Williams & Sparages LLC

Name

189 North Main Street

Mailing Address

Middleton

City/Town

MA

State

01949

Zip Code

978-539-8088

Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

George Danis - Stella II Realty Trust & JAM Enterprise 2, LLC - Amended Order of Conditions (OoC)

Applicant

8/1/2006 & 9/16/2019 (Amended OoC)

Dated

209-413

DEP File Number

3. The project site is located at:

2 Broadway (Route 1)

Street Address

Lynnfield

City/Town

59

Assessors Map/Plat Number

1289

Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

George Danis - Stella II Realty Trust & Gregg Monastiero, JAM Enterprise 2, LLC - Amended OoC

Property Owner (if different)

Essex South

County

25963 & 37894

Book

50, 95

Page

Certificate (if registered land)

5. This request is for certification that (check one):

the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

Please see attached

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



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### A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes

If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

No

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### B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).

December 2, 2020

Lynnfield Conservation Commission  
c/o Ms. Emilie Cademartori, Director of Planning and Conservation  
Lynnfield Town Hall, 55 Summer Street  
Lynnfield, MA 01940-1861

Re: Review of Request for a Certificate of Compliance, MADEP File No. 209-0413  
2 Broadway, Lynnfield, MA

Dear Commissioners:

This correspondence is in response to the request from the Lynnfield Conservation Commission (LCC) for our firm to review the Request for a Certificate of Compliance (COC) for the above referenced project. The Certificate of Compliance request package is dated November 9, 2020 and was received by our firm on Monday, November 16, 2020. PDF files for the filing were received from the LCC office.

In response to the receipt of the COC Request Package we visited the site on Tuesday, November 24, 2020 to view the as-built conditions. The following are our observations and comments on the Request for a Certificate of Compliance and our recent site inspection:

**CERTIFICATE OF COMPLIANCE REVIEW COMMENTS AND CONCERNS**

1. On the COC Request Form (WPA Form 8), Items 2 and 4 reference the original Order of Conditions (OOC) but neglect to mention the Insignificant Change Letter issued by the LCC on August 25, 2016, the Amended OOC dated September 16, 2019 and the building change approved by the LCC. This portion of the form should be revised to include all this information and the different Applicant(s)/Owner(s) along with the recording information for the Amended OOC.
2. On the COC Request Form (WPA Form 8) under Item 5 the second box is checked but no description is provided. This should be completed.
3. The information on the As-Built plan in the COC Request package was very light and very difficult to read. Some of the printing was small and appears to be green in color making it difficult to read. A more legible plan should be provided with the linework and text darker in color and black on the white background.
4. Condition 82b of the final Amended Order of Conditions issued by the LCC for the project states in part, *"Upon completion of the project the applicant shall request in writing a Certificate of Compliance from the Conservation Commission and shall submit the following information with the request:... two sets of field surveyed as-built site plans prepared, signed and stamped by a Commonwealth of Massachusetts Registered Land Surveyor or registered Professional Engineer. The as-built plan shall include, at a minimum, and as applicable to the project, elevations of all pipe inverts and outlets, pipe sizes, materials, and slopes; all other drainage structures, limits of clearing, grading and fill; all structures, pavement and spot elevations and 2 foot contour elevations within 100 feet of wetlands boundaries; locations of wetlands boundaries; all alterations within wetland resource areas; all wetland replication*

- areas; and all dates of fieldwork*". The plan submitted with the COC Request does not show all pipe slopes as required and does not show any detail on the infiltration system located at the western end of the building. We could not locate the dates of the fieldwork on the plan. We note that the contours and spot elevations on the plan are on the binder course pavement and not on the finished course.
5. Condition 82c of the final Amended Order of Conditions issued by the LCC for the project states the following with respect to the required As-Built Plans, "*The as-built plans shall locate a control point and benchmark*". We could not locate any control points or benchmarks on the plan.
  6. Condition 82d of the final Amended Order of Conditions issued by the LCC for the project states the following shall be submitted, "*Post-construction photographs demonstrating compliance with this Order, including established vegetation where required*". No photographs were contained in the materials we received.
  7. Condition 87 of the Amended OOC requires, "*Permanent boundary markers shall be installed at 50 foot intervals along the edge of the 50 foot buffer zone or at the limit of construction whichever is nearer to the wetland edge. The type of permanent markers shall be approved by the Lynnfield Conservation Commission or its agent. These shall be shown on the as-built plan and clearly marked on the plan with a note indicating no work shall be performed beyond this point without permission from the Lynnfield Conservation Commission. Marker locations shall be included on the As-Built plan*". We found no evidence of any markers on the plan or in the field. Has the LCC waived compliance with this Condition? If not, the markers should be installed and noted on the As-Built Plan.
  8. During our site inspection we noted that the perimeter erosion controls remain in place. We also noted that in some locations loam or fill material has been pushed up against the silt fence. We recommend that the silt fence (except at the southwest corner of the site and at the level spreader) be removed next spring during the growing season and that any loam be smoothed out and seeded to establish grass where the silt fencing has been removed.
  9. There is an area of exposed earth at the base of the retaining wall at the southwest corner of the site. This area needs to be stabilized with loam and vegetation (such as meadow mix).
  10. During our site inspection we noted that a small number of the newly planted evergreen shrubs appear to be dead (all brown foliage) and a few more of the newly planted evergreen shrubs appear to be in poor health (some brown foliage). The dead shrubs need to be replaced and the sickly shrubs need to be monitored and replaced if their health does not improve. Due to the dormant season we could not assess the condition of the newly planted deciduous trees and shrubs at the site.
  11. The grassed areas around the perimeter of the site are generally in good condition, Looking straight down at the grass, it is questionable as to whether the grass meets the 80% ground coverage requirement of Condition 69a of the Amended OOC. We suggest that the lawns be lightly fertilized in the spring and they should flourish into >80% coverage.



12. The retaining wall at the northwest corner of the parking area is much different than the wall shown on the approved plans and it is located closer to the wetland than approved. Was this change approved by the LCC under the requirements of Conditions 14 & 31 of the Amended OOC?
13. The level spreader located near the northwest corner of the driveway is different than what was shown on the approved plan. We question if this is serving its intended purpose as it appears visually that runoff flows around the curbing rather than over it. Also, there is an extensive area of riprap located around and below this area that was not shown on the approved plan and it is closer to the wetland than what was shown on the approved plan. Was this change approved by the LCC under the requirements of Conditions 14 & 31 of the Amended OOC?
14. The pipe bridge over the stream has been constructed much differently from what was shown on the approved plan. The concrete abutments shown on the approved plan were not constructed on either end of the pipe. Rather, the beam was placed on large rocks at either side and shimmed with smaller rocks. Also, the beam appears to be much smaller than the wide flanged beam shown on the approved plans and the pipe attachments at 4 foot intervals appear to be missing. We are concerned with movement of the HDPE drain pipe with the dynamic force of water flowing through it, the potential frost heaving of the boulder supports (are they founded 4 feet below grade?) and the long term settlement of the beam. Was this change approved by the LCC under the requirements of Conditions 14 & 31 of the Amended OOC?
15. We note that it appears that work was done over the property lines of the site where the site abuts the gas station (eastern portion of the site on the north side). Some of this work is outside the Buffer Zone but some of the work is within the Buffer Zone. Was this change approved by the LCC under the requirements of Conditions 14 & 31 of the Amended OOC?
16. During our site visit we noted that the twin 24 inch corrugated metal pipes the stream flows into (just to the west of the apartment construction area) are exposed for about 10 to 12 feet, We do not know if these pipes were always like this or if they have been exposed by erosion.
17. Is the well that was drilled on the site for temporary use being retained for irrigation use? If so, the well location should be added to the As-Built Plan.
18. Has the easement required by Condition 37 of the Amended OOC (for vehicular access to and all portions of the drainage system for maintenance and repair) been provided to and approved by the LCC?
19. Have the easements and agreements required by Condition 38 a, f & g of the Amended OOC been provided to the LCC?
20. Has the cleaning, video inspection and repair of the dual 24 inch diameter drain lines receiving runoff from the on-site wetlands been completed as required by Condition 51 of the Amended OOC?

Lynnfield Conservation Commission, c/o Ms. Emilie Cademartori, Dir. of Planning & Conservation

Re: Review of Request for a Certificate of Compliance, MADEP File No. 209-0413

2 Broadway, Lynnfield, MA

December 2, 2020, Page 4 of 4

21. Have the Stormwater Maintenance Reports required by Conditions 92 and 96 of the Amended OOC been filed with the LCC?
22. As required by Condition 93 of the Amended OOC, has the Owner provided the Conservation Commission with the contact name and telephone number for the person responsible for implementation of the Operation and Maintenance Plan for the drainage systems?
23. Has all the stormwater system maintenance, including the maintenance of the off-site forebay and detention basin been performed at the intervals required by the O&M and noted in the annual Stormwater Maintenance Report filed with the LCC?
24. Any COC issued for the project should refer to the perpetual conditions in the Amended OOC that survive the issuance of a COC.

Please feel free to contact us if you have any questions regarding our review and comments.

Very truly yours,

**LINDEN ENGINEERING PARTNERS, LLC**



William A. Jones, Sr. Partner



Richard G. Cutts, P.E., President



## 2 Broadway (Michael's Landing) Site Photos (10/1/20)



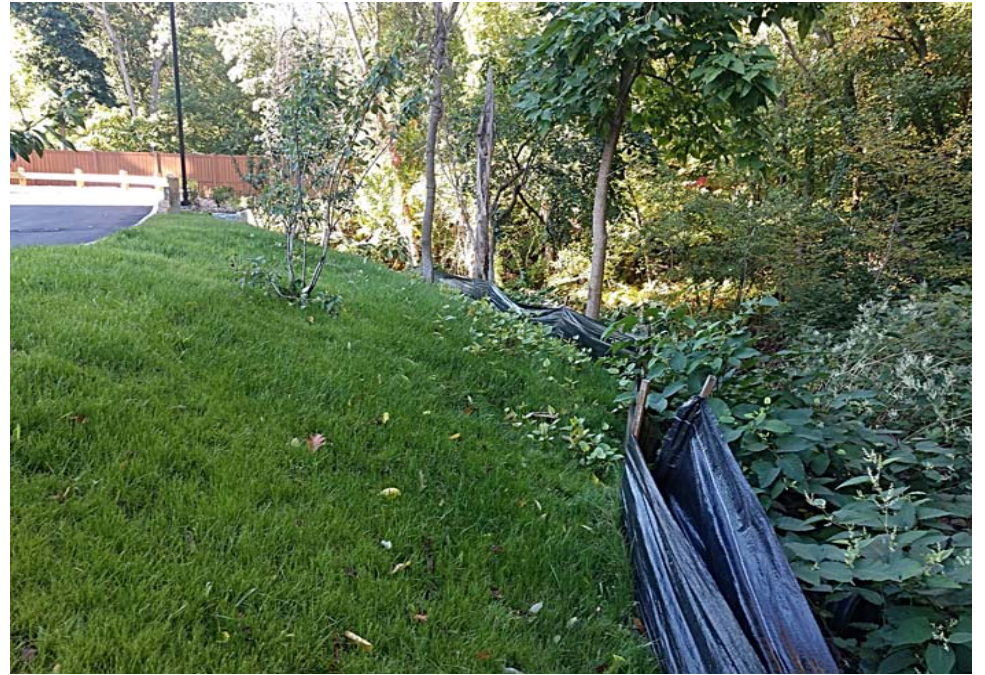




















2 Broadway (Michael's Landing)  
Level Spreader Photos (12/8/20)





25/75

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EASEMENT AGREEMENT

EASEMENT AGREEMENT made as of this 29~~th~~ day of January, 2007, between and among George E. Danis, as Trustee (the "STELLA II TRUSTEE") of The Stella II Realty Trust, under Declaration of Trust dated March 3, 1999 and recorded with the Essex South District Registry of Deeds (the "Registry") in Book 15540, Page 33 (the "STELLA II TRUST") with a business address of One General Way, Reading, Massachusetts 01867, owner of the property in Lynnfield, Essex County, Massachusetts, located at 2 Broadway and shown as (a) Lot 1 ("LOT 1") on plan entitled "Plan of Land #2 Broadway, Route 1, Lynnfield, Mass.," dated February 20, 2003, prepared by Hayes Engineering, Inc. and recorded with the Registry in Plan Book 368, Plan 44 (the "2003 ANR Plan") and (b) located off Broadway and shown as Lot 1C ("LOT 1C") on a Plan entitled "Plan of Land, #24 Broadway, Route 1, Lynnfield, Mass., Assessor's Map 59, Parcels 1289, 1319 & 648," dated March 3, 2006, drawn by Hayes Engineering, Inc., Civil Engineers and Land Surveyors, and endorsed by the Lynnfield Planning Board as "Approval under the Subdivision Control Law Not Required" on March 15, 2006, which Plan is recorded with the Registry in Plan Book 396, Plan 93 (the "2006 ANR Plan") (collectively, the "STELLA II LAND"); George E. Danis and Stella Danis, as Trustees (the "CONDOMINIUM TRUSTEES") of Ship Mall Condominium Trust under Declaration of Trust, dated August 7, 1991 and recorded with the Registry in Book 10903, Page 371, as amended by First Amendment To Declaration Of Trust Of Ship Mall Condominium Trust dated October 3, 1991 and recorded with the Registry in Book 10997, Page 29 (the "Ship Trust"), being the organization of Unit Owners of the Ship Mall Condominium (the "Condominium") created by Master Deed dated August 7, 1991 and recorded with the Registry in Book 10903, Page 355, as

amended by First Amendment To Master Deed Of Ship Mall Condominium dated October 3, 1991, and recorded with the Registry in Book 10997, Page 24, and as further amended by Second Amendment To Master Deed Of Ship Mall Condominium dated as of November 6, 2006 and recorded with the Registry in Book 26263, Page 332 (collectively, the "Master Deed"), with a business address of One General Way, Reading, Massachusetts 01867, which Condominium is comprised of certain property in Lynnfield, Essex County, Massachusetts (a) located at 24 and 38 Broadway (the "INITIAL CONDOMINIUM PARCEL") and shown on a Plan entitled "Condominium Plan of Land in Lynnfield, Mass." dated July 16, 1991, by Hayes Engineering, Inc., and recorded with the Registry in Plan Book 270, Page 58 (the "Condominium Plan"), and (b) located off Broadway and shown as Lot 1A ("LOT 1A") and Lot 1B ("LOT 1B") on the 2006 ANR Plan, all of which property also is shown on a Plan entitled "Amended Condominium Plan Of Land In Lynnfield, Mass.", dated February 12, 2004 and revised September 9, 2004 and June 5, 2006, by Hayes Engineering, Inc. and recorded with the Registry in Plan Book 402, Plan 74 (collectively, the "CONDOMINIUM LAND"); and George E. Danis, as Trustee (the "STELLA LYNNFIELD TRUSTEE") of Stella Lynnfield Realty Trust (formerly known as The Stella Trust), u/d/t dated October 10, 1975 and recorded with the Middlesex South District Registry of Deeds in Book 12912, Page 5, as amended by instrument dated July 1, 1981 and recorded with the Middlesex South District Registry of Deeds in Book 14408, Page 177, and as amended and restated by instrument dated December 30, 1998 and recorded with the Middlesex South District Registry of Deeds in Book 29608, Page 459, a certified copy of which is recorded with the Registry in Book 20366, Page 567 (the "STELLA LYNNFIELD TRUST"), with a business address of One General Way, Reading, Massachusetts 01867, as owner of Units 1 and 2 in the

Condominium, being all of the units in the Condominium, and the holder of one hundred (100%) percent of the beneficial interest in the Ship Trust.

WHEREAS, the STELLA II LAND and the CONDOMINIUM LAND are contiguous to each other and are subject to and have the benefit of various existing easements between the STELLA II TRUSTEE, the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE; and

WHEREAS, the STELLA II TRUSTEE, the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE desire to grant additional easements affecting the STELLA II LAND and the CONDOMINIUM LAND;

NOW, THEREFORE, in consideration of the foregoing recitals and the sum of One (\$1.00) Dollar paid, the receipt and sufficiency of which is hereby acknowledged, the STELLA II TRUSTEE, the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE hereby agree as follows:

**1. GRANT OF EASEMENTS BENEFITING THE STELLA II LAND.**

The CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE hereby grant to the STELLA II TRUSTEE, and its successors and assigns, as appurtenant to the STELLA II LAND, the perpetual right and easement to enter onto and use, in common with the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE and others from time to time entitled to use the same, at the STELLA II TRUSTEE'S sole cost and expense, and solely for the purpose of serving the STELLA II LAND: (a) that portion of the CONDOMINIUM LAND lying within the area labeled "30' Wide Sewer Easement" (the "Sewer Easement") on Sheet 3 of 3 of the set of three (3) plans entitled "Sketch Plan in Lynnfield, Mass. Showing Sewer And Drain Easements", drawn by Hayes Engineering, Inc. and dated December

4, 2006 (collectively, the "Easement Plans"), which Easement Plans are attached hereto as Exhibit A and incorporated herein by reference, for the purposes of installing, maintaining, replacing, removing and using underground sewers, pipes, drains and appurtenances (all of which underground sewers, pipes, drains and appurtenances shall remain the property of the party installing the same and which party shall be responsible for maintaining the same) in, on and under the Sewer Easement to connect to the sewer system serving the Condominium; (b) that portion of the CONDOMINIUM LAND lying within the area labeled "30' Wide Drain Easement A" (the "Drain Easement") on Sheet 2 of 3 of the Easement Plans for the purposes of surface and subsurface drainage and for the purposes of installing, maintaining, replacing, removing and using catch basins, underground drainage pipes, lines, fittings, fixtures and related apparatus and equipment in, on and under the Drain Easement (all of which catch basins, underground drainage pipes, lines, fittings, fixtures and related apparatus and equipment shall remain the property of the party installing the same and which party shall be responsible for maintaining the same), including the replacement by the STELLA II TRUSTEE of the existing 12" drainage pipe presently serving the drainage system on LOT 1B with an 18" concrete pipe, provided, however, that such work shall be performed so as to allow the existing catch basins and drainage system located on LOT 1B to continue to provide the necessary drainage for the parking lot located on LOT 1B while any work is being performed by the STELLA II TRUSTEE within the Drain Easement; (c) to construct and maintain, pursuant to and only to the extent required by that certain Decision by the Lynnfield Zoning Board of Appeals for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, dated May 4, 2006 and recorded with the Registry in Book 25741, Page 1 (the "Development"), at the sole cost and expense of the STELLA II TRUSTEE, a footbridge, with drainpipe attached to the underside

30' W  
DRAIN EASEMENT

FOOTBRIDGE

thereof (the "Drainpipe"), from the STELLA II LAND to and onto LOT 1B, substantially as shown on the Sketch Plan attached hereto as Exhibit B and incorporated herein by reference (the "Footbridge") and connect the Drainpipe to the pipes in the Drain Easement; (d) LOT 1B by foot from the Footbridge to access and service the drainpipe attached to the bottom of the Footbridge for the sole purpose of installing, maintaining, repairing and replacing the same; and (e) the Condominium Land by pedestrian access only, from the Footbridge to the business facilities now or in the future located on the Condominium Land, subject, however, to the condition that neither the Stella II Trustee, nor its successors or assigns nor any person claiming under, by, or through the Stella II Trustee shall have any right to use any part of the Condominium Land for parking for occupants of the Stella II Land or their guests or invitees except during such times as they are patronizing businesses on the Condominium Land.

Handwritten note: Pedestrian Access

With respect to the foregoing Sewer Easement granted to the STELLA II TRUSTEE, the STELLA II TRUSTEE hereby agrees as follows:

The STELLA II TRUSTEE shall use his best efforts to connect the sewer system servicing the Development to the Town of Saugus sewer system by connecting directly to the U. S. Route 1 sewer main and to otherwise comply with all of the requirements of that certain Agreement between the STELLA LYNNFIELD TRUSTEE, the STELLA II TRUSTEE and the Town of Saugus dated as of January \_\_, 2005 and recorded with the Registry in Book 23867, Page 161, as affected by an Amendment of Agreement dated January 19, 2006, and recorded with the Registry in Book 25387, Page 414 (the "Sewer Agreement"), and all other legal requirements related to such connection. In the event the STELLA II TRUSTEE connects the sewer system servicing any building at the Development to the Town of Saugus sewer system by connecting directly to the U. S. Route 1 sewer main and a Certificate of Occupancy is issued by

the Town of Lynnfield for such building, then, in such event, the Sewer Easement shall terminate upon the recording by the CONDOMINIUM TRUSTEES of an Affidavit of Termination, accompanied by a copy of such Certificate of Occupancy.

In the event the STELLA II TRUSTEE, despite using such best efforts, cannot connect the sewer system servicing the Development to the Town of Saugus sewer system by connecting directly to the U. S. Route 1 sewer main and is required by the Town of Saugus to tie in to the Town of Saugus sewer system through the existing sewer system now located on and solely serving the CONDOMINIUM LAND, then all initial work performed and all materials required to make such connection shall be at the sole cost and expense of the STELLA II TRUSTEE and shall be performed in a good and workmanlike manner in accordance with all legal requirements relating to the same and the terms of the Sewer Agreement. At all times during the performance of the work the STELLA II TRUSTEE shall maintain proper liability insurance naming the CONDOMINIUM TRUSTEES as an additional insured, and keep the CONDOMINIUM LAND free of liens for labor and materials. All costs and expenses incurred in connection with that portion of the sewer system serving both the STELLA II TRUSTEE and the CONDOMINIUM TRUSTEES after any such connection shall be borne sixty-nine (69%) percent by the STELLA II TRUSTEE and thirty-one (31%) percent by the CONDOMINIUM TRUSTEES, based upon the allocation of gallon usage set forth in the Sewer Agreement. In addition, only as among the parties to this Agreement and their successors and assigns, and without altering or intending to alter obligations of those parties to the Town of Saugus as set forth in the Sewer Agreement, the STELLA II TRUSTEE shall be specifically responsible for the following costs and expenses under the terms and provisions of the Sewer Agreement: (a) the sewer tie-in fee set forth in Section IV.A; the annual fees set forth in Sections IV.B and IV.C.; the costs of camera inspection



set forth in Section VI.; the bond described in Section VII.; and the cost of the meters described in Section VIII. Except as aforesaid, the parties to the Sewer Agreement each shall be bound by and comply with the terms and provisions of the Sewer Agreement, as applicable. Any such work performed by the STELLA II TRUSTEE in the Sewer Easement shall be performed so as not to adversely affect the parking and common areas used by the tenants and their customers at the Condominium. No work or installation shall be performed in the easement area pursuant hereto between the first of September in any year and the first day of February in the next succeeding year, unless such work is required by law or by government order or is to address an emergency situation. The STELLA II TRUSTEE also shall be responsible for the cost of upgrading the existing sewer system servicing the CONDOMINIUM LAND needed to properly handle the additional sewer flowage coming from the STELLA II LAND as a result of any such connection. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to violate or invalidate any provision of the Sewer Agreement, and to the extent that the Sewer Agreement allocates responsibility for costs or obligations to certain parties, those parties shall remain responsible to the Town of Saugus in accordance with the terms of the Sewer Agreement, but shall have the right to be reimbursed in full for the same from the party responsible for such costs or obligations pursuant to this Agreement. A party so obligated to reimburse the other shall pay any such reimbursement in full within thirty (30) days after receipt of an invoice itemizing the amount of reimbursement due.

In the event the STELLA II TRUSTEE does not use the Sewer Easement to connect to the sewer system servicing the Development to the Town of Saugus sewer system through the existing sewer system located on the CONDOMINIUM LAND within three (3) years from the date of recording of this Agreement with the Registry, then, in such event, the Sewer Easement

shall be deemed abandoned and may be terminated upon the recording by the CONDOMINIUM TRUSTEES of an Affidavit of Termination as to such non-use.

With respect to the foregoing Drain Easement granted to the STELLA II TRUSTEE, the STELLA II TRUSTEE hereby agrees as follows:

All work performed within the Drain Easement shall be at the sole cost and expense of the STELLA II TRUSTEE and shall be performed in a good and workmanlike manner in accordance with all legal requirements relating to the same. At all times during the performance of the work the STELLA II TRUSTEE shall maintain proper liability insurance naming the CONDOMINIUM TRUSTEES as an additional insured, and keep the CONDOMINIUM LAND free of liens for labor and materials. The Drain Easement shall not be used in any manner that will adversely impact the CONDOMINIUM LAND or overburden the drainage system so it cannot properly service the parking lot located on LOT 1B. Any such work performed by the STELLA II TRUSTEE in the Drain Easement shall be performed so as not to commercially unreasonably adversely affect the parking and common areas used by the tenants and their customers at the Condominium. No work or installation may be performed within the Drain Easement area pursuant hereto by the STELLA II TRUSTEE between the first of September in any year and the first day of February in the next succeeding year, unless such work is required by law or by government order or is to address an emergency situation.

**2. GRANT OF EASEMENTS BENEFITING THE CONDOMINIUM LAND.**

The STELLA II TRUSTEE hereby grants to the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE, and their successors and assigns, as appurtenant to the CONDOMINIUM LAND, the perpetual right and easement to enter onto and use the STELLA II LAND, in common with the STELLA II TRUSTEE, and others from time to time entitled to use



the same, at the sole cost and expense of the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE, and solely for the purpose of serving the CONDOMINIUM LAND:

(a) to install, maintain, repair and replace, as necessary, all supporting walls, berms and other related structures and materials needed to maintain the existing grade and slope serving and supporting LOT 1B and to install, maintain, repair, fill, replace and use all improvements located on or adjacent to LOT 1C and serving LOT 1B; (b) for the drainage and run off of surface and subsurface water from the CONDOMINIUM LAND onto LOT 1C and to use, locate, install, excavate, inspect, maintain, repair, replace, relocate, alter, extend and remove, as necessary one or more pipes, catchbasins, and other fixtures and equipment as reasonably necessary or required for the same, in the sole discretion of the CONDOMINIUM TRUSTEES and/or the STELLA LYNNFIELD TRUSTEE (all of which pipes, catch basins, and other fixtures and equipment shall remain the property of the party installing the same); (c) to locate, install, excavate, maintain, repair, replace, alter, relocate, strengthen and provide additional support, as necessary, for the bridge connecting the INITIAL CONDOMINIUM PARCEL with LOT 1B; (d) to inspect, maintain, repair, replace, support and strengthen, as necessary, the existing retaining wall supporting the CONDOMINIUM LAND; (e) to deposit and store plowed snow and ice deposits on portions of the STELLA II LAND adjacent to the parking lots located on the CONDOMINIUM LAND, provided the same is done in compliance with applicable laws, ordinances and regulations of any government authority with jurisdiction over such issues; and (f) to use that portion of LOT 1C shown as "30' Wide Drainage Easement B" on Sheet 3 of 3 of the Easement Plans ("Drainage Easement B") for the following purposes: to install, use, operate, maintain, inspect, repair, replace, relocate, extend or remove one or more pipes for the drainage of surface and subsurface water and all conduits, conductors, pipes, and other apparatus,

equipment and fixtures deemed necessary for the purposes specified above, as the CONDOMINIUM TRUSTEES and/or the STELLA LYNNFIELD TRUSTEE may from time to time desire along, upon, under and across Drainage Easement B, to remove obstructions to the extent the CONDOMINIUM TRUSTEES and/or the STELLA LYNNFIELD TRUSTEE deem necessary to clear and keep clear and operate safely the said conduits, conductors, pipes and other apparatus, equipment and fixtures; to use Drainage Easement B for surface and subsurface water run-off; and to enter Drainage Easement B for all of the above purposes. Any materials, pipes, equipment, lines, fittings, fixtures and related apparatus and equipment installed pursuant to this Section 2 shall remain the property of the party installing the same.

**3. AGREEMENTS AND EASEMENTS RELATIVE TO STORMWATER MANAGEMENT SYSTEM.**

The parties hereto hereby confirm that the stormwater management and drainage systems (the "Systems") for the STELLA II LAND and the CONDOMINIUM LAND are integrated systems, with each property owner using portions of the land of the other, now or in the future for stormwater management and drainage purposes. On or about May 21, 2001, the Town of Lynnfield Conservation Commission issued to the STELLA II TRUSTEE and others Order Of Conditions No. 209-314, recorded with the Registry in Book 20401, Page 221, and relating to the STELLA II LAND and the CONDOMINIUM LAND (the "First Order of Conditions"). On or about August 1, 2006, the Town of Lynnfield Conservation Commission issued to the STELLA II TRUSTEE Order Of Conditions No. 209-413, recorded with the Registry in Book 25963, Page 50, and relating to the STELLA II LAND and also affecting the CONDOMINIUM LAND (the "Second Order of Conditions"). Said Conservation Commission issued a Partial Certificate of Compliance for the First Order of Conditions, dated January 18, 2007, and to be recorded

herewith (the "Partial Certificate"). The Partial Certificate identifies Conditions 43,45,46,47 and 51 of the First Order of Conditions as ongoing conditions (collectively, the "Ongoing Conditions"). The Second Order of Conditions, among other things, requires the STELLA II TRUSTEE and the CONDOMINIUM TRUSTEES to enter into and record with the Registry an agreement relative to the operation and maintenance of the Systems. Therefore, the STELLA II TRUSTEE and the CONDOMINIUM TRUSTEES agree as follows:

The STELLA II TRUSTEE shall be responsible for the cost of Ongoing Condition 43 to the extent that ongoing work pursuant to Condition 43 is required by the First Order of Conditions. The STELLA II TRUSTEE shall be responsible for continuing compliance with Ongoing Conditions 45, 46 and 47, as they relate to the STELLA II LAND, and the CONDOMINIUM TRUSTEES shall be responsible for compliance with Ongoing Conditions 45, 46 and 47 as they relate to the CONDOMINIUM LAND. For so long as the STELLA II LAND remains undeveloped, the STELLA II TRUSTEE shall obtain and file the written reports required by Condition 51 of the First Order of Conditions, and the CONDOMINIUM TRUSTEES shall reimburse the STELLA II TRUSTEE for the cost of obtaining said written reports, with reimbursement due within thirty (30) days of the CONDOMINIUM TRUSTEES' receipt of an invoice therefor. From and after the time that the STELLA II LAND is developed, the STELLA II TRUSTEE shall continue to obtain and file the written reports required by Condition 51 of the First Order of Conditions, and the CONDOMINIUM TRUSTEES and the STELLA II TRUSTEE each shall be responsible for one-half of the cost of obtaining said written reports, with the party making initial payment being entitled to reimbursement from the other within thirty (30) days of receipt of an invoice therefor. The Stella II Trustee shall be responsible for obtaining and recording a final (except as to conditions which are, by their terms,

perpetual in nature) Certificate of Compliance for the First Order of Conditions and for obtaining and recording a Certificate of Compliance for the Second Order of Conditions.

The STELLA II TRUSTEE and the CONDOMINIUM TRUSTEES hereby grant to each other, and to their respective successors and assigns, as appurtenant to the CONDOMINIUM LAND and the STELLA II LAND, respectively, the perpetual right and easement to enter upon, by foot or vehicle, any access drive, parking area or other area owned by the other and containing or providing access to the forebay, detention system and/or other component of the System for the purpose of exercising the rights and obligations to operate and maintain the System and any component thereof conveying flows thereto, provided such entry does not materially and unreasonably interfere with the use or operation of the same by the owner thereof.

The STELLA II TRUSTEE and the CONDOMINIUM TRUSTEES are and shall be jointly and severally responsible for the operation and maintenance of the System, including any forebay and detention system on the STELLA II LAND and the CONDOMINIUM LAND and any component of the System conveying flows thereto. Notwithstanding the foregoing, the STELLA II TRUSTEE shall have primary responsibility for the repair, replacement, servicing, operation and maintenance of the System's structures located on the STELLA II LAND, except for those structures exclusively benefiting the CONDOMINIUM LAND, for which the CONDOMINIUM TRUSTEES shall be solely responsible. The CONDOMINIUM TRUSTEES shall have primary responsibility for the repair, replacement, servicing, operation and maintenance of the System's structures located on the CONDOMINIUM LAND, except for those structures exclusively benefiting the STELLA II LAND, for which the STELLA II TRUSTEE shall be solely responsible. To the extent that any party pays or incurs costs and expenses or performs duties that are the sole responsibility of the other party, the party paying or

incurring such costs and expenses or performing such duties shall have the right to be reimbursed in full for the same from the party solely responsible therefor. To the extent that any party pays or incurs costs and expenses or performs duties that are the joint responsibility of both parties, the party paying or incurring such costs and expenses or performing such duties shall have the right to be reimbursed for one-half of the same from the other party jointly responsible therefor. A party shall pay any such reimbursement due to another party within thirty (30) days after the receipt of an invoice itemizing the amount of such reimbursement due.

**4. MISCELLANEOUS PROVISIONS.**

With respect to the foregoing easements benefiting the STELLA II LAND and/or the CONDOMINIUM LAND and not otherwise covered therein, the STELLA II TRUSTEE, the CONDOMINIUM TRUSTEES and the STELLA LYNNFIELD TRUSTEE by their acceptance hereof, for themselves and their successors and assigns, hereby agree as follows:

- (a) If in connection with any installation or work performed, any excavations are made in an easement area, the party making such excavation shall forthwith restore the excavated portion of said easement area to its prior condition to the extent reasonably possible.
- (b) Each party shall indemnify and save the others harmless from and against any loss, damage or liability arising out of their exercise of the rights and easements set forth herein;
- (c) The foregoing rights and easements shall be exercisable only by the party granted the same, and their respective successors and assigns;
- (d) Each party shall exercise all rights and obligations granted hereunder at its own risk, cost and expense;
- (e) Each party shall make diligent efforts to insure that any work and installation performed pursuant hereto will result in minimum interference with the operations of the others,

and their successors and assigns, and shall not perform any work on the CONDOMINIUM LAND, other than routine maintenance if reasonably required, pursuant to this Agreement between the first day of September in any year and the first day of February in the succeeding year, unless such work is required by law or by government order or is to address an emergency situation;

(f) Each party shall hold the others harmless from all loss and damage resulting from the negligent installation, maintenance, or use of any materials or related equipment pursuant hereto;

(g) The rights, obligations, and easements granted by, and/or set forth in, this instrument shall be appurtenant to the land benefiting therefrom and inure to the benefit of the owner thereof and all such owner's successors and assigns in title, shall be deemed covenants and easements running with the land, shall be irrevocable, except as otherwise provided herein, shall continue in perpetuity, shall be a burden upon the land over which such rights and easements are granted or to which such obligations apply, and shall be binding upon the owner of the land so burdened and all such owner's successors and assigns in title.

##### **5. TRUSTEES' CERTIFICATES.**

(a) Stella II Land Owner. The undersigned George E. Danis, as sole trustee of the Stella II Trust, hereby certifies that: (a) he is the sole trustee of said Trust; (b) said Trust has not been modified, amended or rescinded and remains in full force and effect; (c) no beneficiary of the Trust is a minor, is under any legal disability, is a "foreign person" as defined in Section 1445 of the Internal Revenue Code, is a corporation selling all or substantially all of its Massachusetts assets, or is now deceased; and (d) the undersigned has been authorized and directed in writing by all the beneficiaries of the Trust to execute, acknowledge and deliver this Agreement and any

and all documents or instruments the undersigned, as Trustee of the Trust, deems necessary or convenient in connection therewith.

(b) Condominium Trustees. The undersigned George E. Danis and Stella Danis, as the sole Condominium Trustees, hereby certify that: (a) that they are the sole Trustees thereof; (b) the Condominium Trust is in full force and effect,, (c) that they have been authorized and directed by holders of 100% of the beneficial interests in and to the Condominium Trust to execute and deliver this Agreement; and (d) the Condominium Trustees and the Unit Owner have ratified and confirmed the 2003 Easement, the Sewer Agreement and all other instruments of record with the Registry and previously executed by George E. Danis, in has capacity as sole Trustee of the Condominium Trust.

(c) Stella Lynnfield Trustee. The undersigned George E. Danis, as sole trustee of the Stella Lynnfield Realty Trust, hereby certifies that: (a) he is the sole trustee of said Trust; (b) said Trust has not been modified, amended or rescinded and remains in full force and effect; (c) no beneficiary of the Trust is a minor, is under any legal disability, is a "foreign person" as defined in Section 1445 of the Internal Revenue Code, is a corporation selling all or substantially all of its Massachusetts assets, or is now deceased; and (d) the undersigned has been authorized and directed in writing by all the beneficiaries of the Trust to execute, acknowledge and deliver this Agreement and any and all documents or instruments the undersigned, as Trustee of the Trust, deems necessary or convenient in connection therewith.

For title references for the STELLA II LAND and the CONDOMINIUM LAND, see the following:

1. Deed from GED Lynnfield Realty Trust to The Stella Trust, dated October 26, 1989 and recorded with said Registry in Book 10209, Page 404;
2. Deed from George DeCoste & Sons, Inc. to The Stella Trust, dated August 8, 1991 and recorded with said Registry in Book 10901, Page 499;
3. The Master Deed, as amended, referenced above;
4. Deed from George DeCoste and Son, Inc. to Stella II Realty Trust dated March 12, 1999 and recorded with said Registry in Book 15540, Page 40;
5. Deed from Stella II Realty Trust to Stella Lynnfield Realty Trust, dated June 27, 2003 and recorded with the Registry Book 21124, Page 430; and
6. Deed from Stella Lynnfield Realty Trust to Stella II Realty Trust, dated May 30, 2006, and recorded with said Registry in Book 25735, Page 589.

George E. Danis, as Trustee of the STELLA LYNNFIELD TRUST, owner of all units in the Condominium, hereby assents to all easements and other rights granted to the CONDOMINIUM TRUSTEES and granted by the CONDOMINIUM TRUSTEES, and to all other agreements made by the CONDOMINIUM TRUSTEES, in the above Agreement, and authorizes the Ship Trust to enter into said Agreement.

**[SIGNATURES CONTINUED ON NEXT PAGE]**



IN WITNESS WHEREOF, we hereunto set our hands and seals <sup>and</sup> this 29th day of

January, 2007.

ATTEST:

*Odmezj*  
Witness

*Odmezj*  
Witness

*Odmezj*  
Witness

*Odmezj*  
Witness

SHIP MALL CONDOMINIUM TRUST

*George E. Danis Trustee*  
GEORGE E. DANIS, as Trustee of the  
SHIP MALL CONDOMINIUM TRUST,  
and not individually

*Stella Danis Trustee*  
STELLA DANIS, as Trustee of the  
SHIP MALL CONDOMINIUM TRUST,  
and not individually

*George E. Danis Trustee*  
GEORGE E. DANIS, as Trustee of the  
STELLA II REALTY TRUST, and  
not individually

*George E. Danis Trustee*  
GEORGE E. DANIS, as Trustee of the  
STELLA LYNNFIELD REALTY TRUST,  
and not individually

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 26 day of January, 2007, before me, the undersigned notary public, personally appeared GEORGE E. DANIS and STELLA DANIS, Trustees as aforesaid, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state government agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as Trustees of SHIP MALL CONDOMINIUM TRUST.



Karen E. Wells  
Notary Public  
Print Name: Karen E. Wells  
My Commission Expires: march 27, 2009

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 26 day of January, 2007, before me, the undersigned notary public, personally appeared GEORGE E. DANIS, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state government agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of STELLA II REALTY TRUST.



Karen E. Wells  
Notary Public  
Print Name: Karen E. Wells  
My Commission Expires: march 27, 2009

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 26 day of January, 2007, before me, the undersigned notary public, personally appeared GEORGE E. DANIS, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state government agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of STELLA LYNNFIELD REALTY TRUST.



Karen E. Wells

Notary Public

Print Name: Karen E wells

My Commission Expires:

MARCH 27, 2009

EXHIBIT "A"

# SKETCH PLAN IN LYNNFIELD, MASS.

SCALE: 1" = 150'

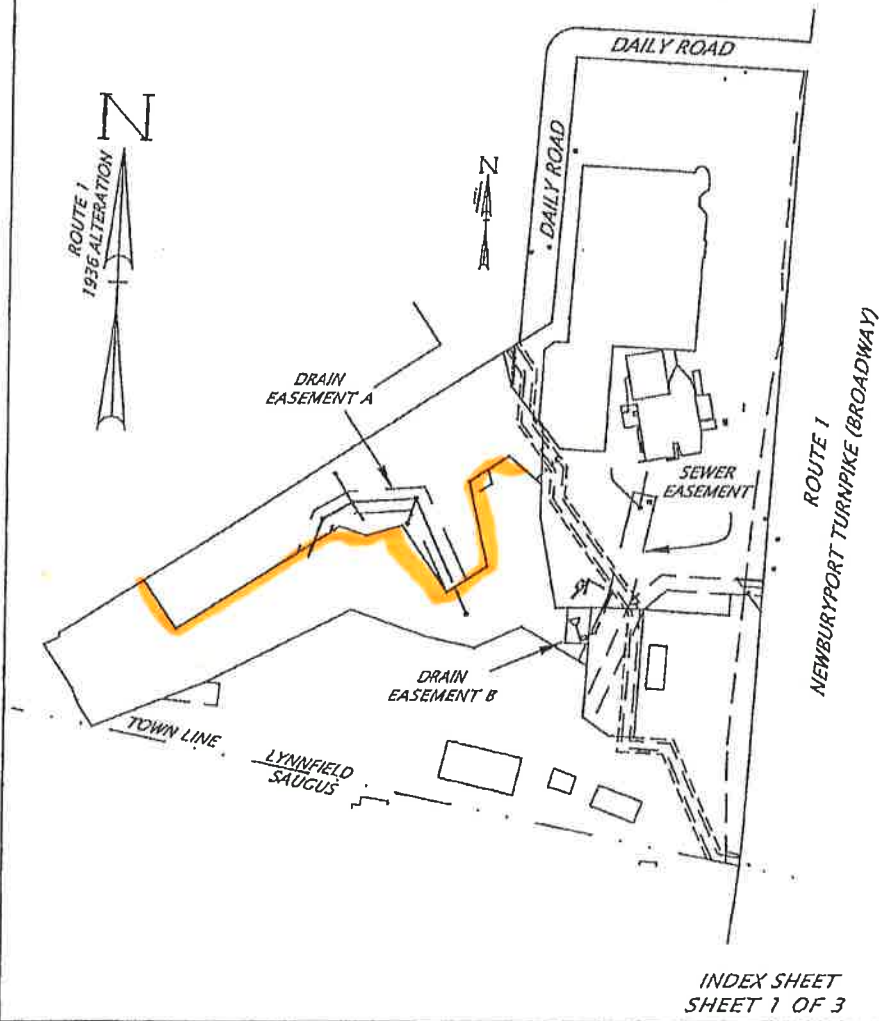
HAYES ENGINEERING, INC.  
CIVIL ENGINEERS &  
LAND SURVEYORS



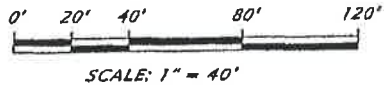
DECEMBER 4, 2006

603 SALEM STREET  
WAKEFIELD, MASS. 01880  
TEL. (781) 246-2800

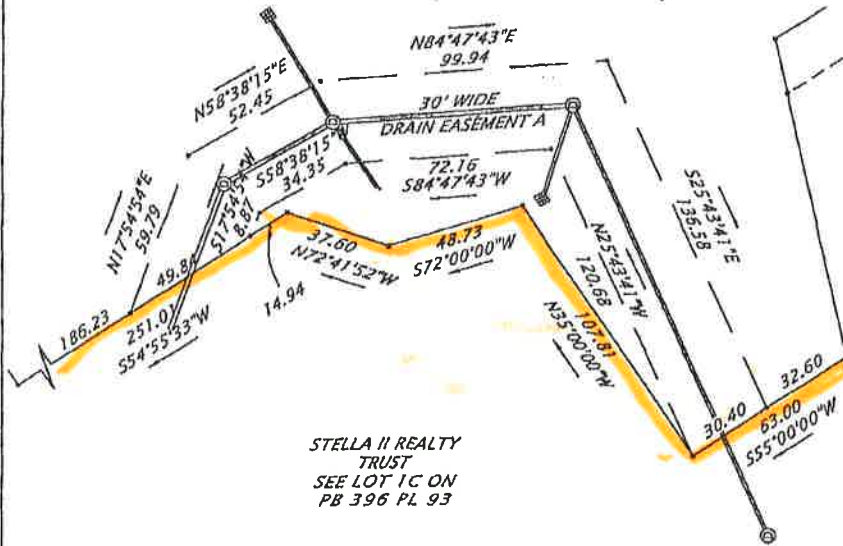
## SHOWING SEWER AND DRAIN EASEMENTS



SKETCH PLAN  
 IN  
 LYNNFIELD, MA.  
 HAYES ENGINEERING, INC.  
 DECEMBER 4, 2006  
 SHOWING SEWER AND DRAIN EASEMENTS



THE STELLA LYNNFIELD REALTY TRUST  
 SEE LOT 1B ON PB 396 PL 93



STELLA II REALTY  
 TRUST  
 SEE LOT 1C ON  
 PB 396 PL 93

SKETCH PLAN  
 IN  
 LYNNFIELD, MA.  
 HAYES ENGINEERING, INC.  
 DECEMBER 4, 2006  
 SHOWING SEWER AND DRAIN EASEMENTS

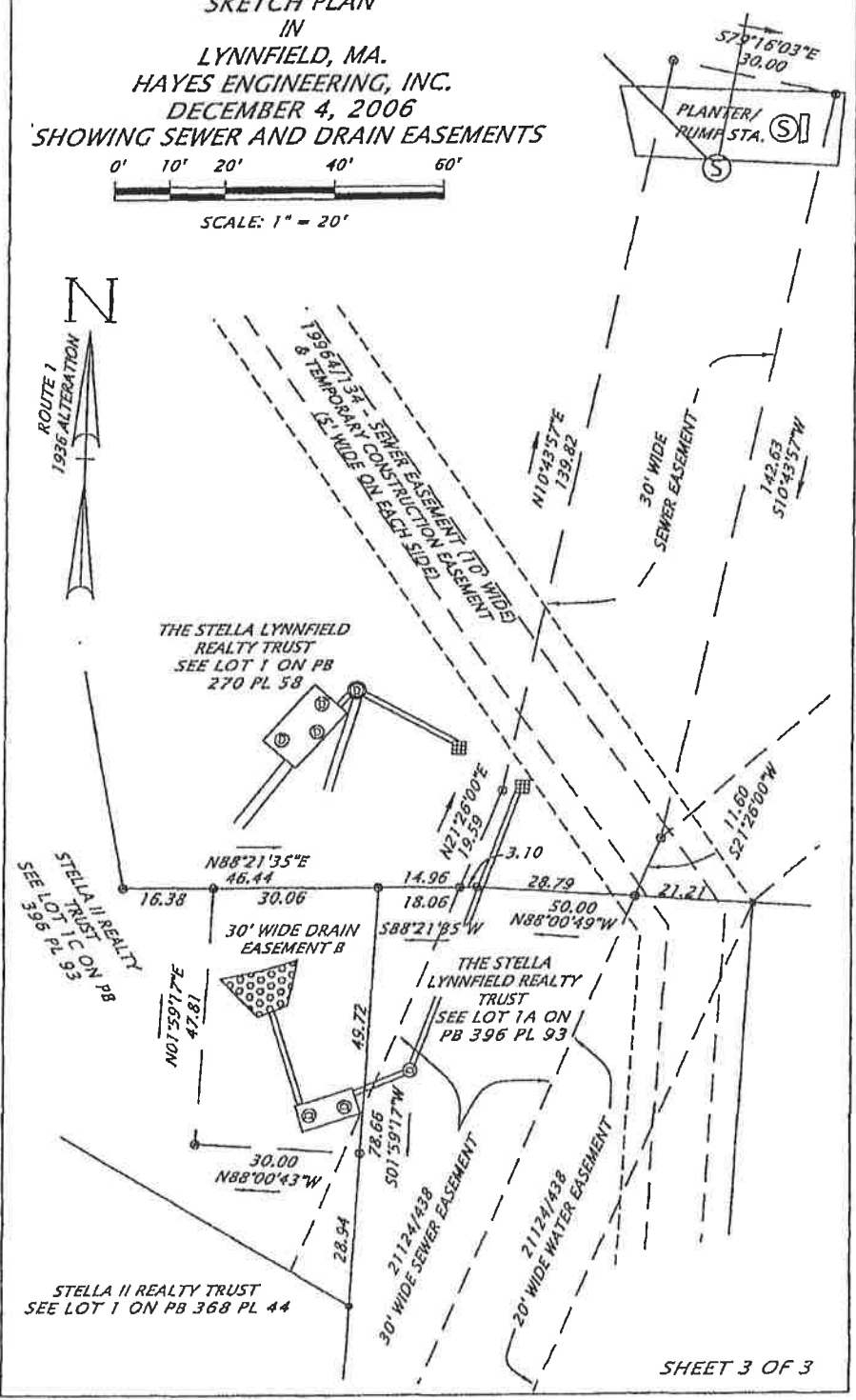
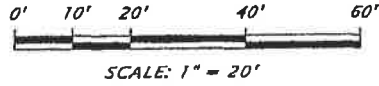
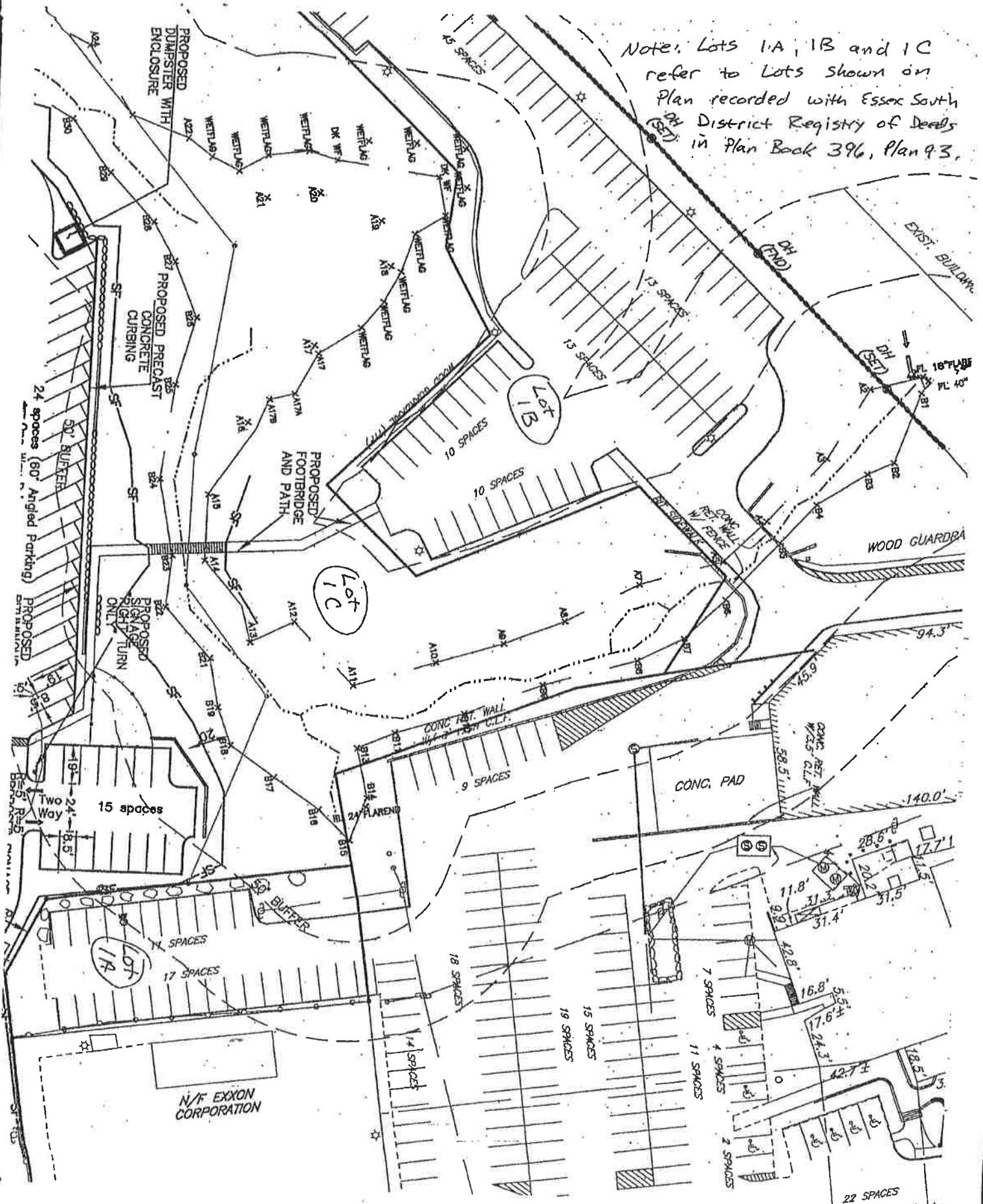


EXHIBIT "B"

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Note: Lots 1A, 1B and 1C refer to Lots shown on Plan recorded with Essex South District Registry of Deeds in Plan Book 396, Plan 93.



N/F EXXON CORPORATION

22 SPACES