HEARINGS, MEETINGS, LICENSES
4-12-10

(Town Seal)

The Middleborough Board of Selectmen will hold a public hearing on Monday, April 12, 2010 at 7:45 PM in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, for the purpose of discussing an application filed by Karl Irving - TNS Auto, for a Class II Automobile (Internet Sales and some sales & parking on-site) Dealer's License for the premises located at 668 Wareham Street, Middleboro, MA (Assessors Map 109/L3139). Anyone desiring to be heard on this matter should appear at the time and place designated.

Patrick E. Rogers
Marsha L. Brunelle
Muriel C. Duphily
Stephen J. McKinnon
Alfred P. Rullo, Jr.
BOARD OF SELECTMEN

Publish: April 1, 2010

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Town of Middleborough

Massachusetts

BOARD OF SELECTMEN
Marsha L. Brunelle

Patrick E. Rogers
Wayne C. Perkins
Steven P. Spataro

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 3/2/10
NAME OF APPLICANT Karl Irving
ADDRESS OF APPLICANT 94 Wood ST Bridgewater MA
ASSESSORS MAP & LOT
NAME OF BUSINESS TNS Auto
OWNER OF PROPERTY TO BE LICENSED
ADDRESS OF PROPERTY TO BE LICENSED 668 Wareham ST
ASSESSORS MAP & LOT 109 /3139

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand Furniture
Class I License
Class III License
Common Victualler

2nd Hand Clothing
Class II License ✓
Liquor License
Other

Internet Sales w/ some sales + parking on site

Anticipated Start Date for Business 3/10
Hours requested:

Has the Applicant previously held a similar license in the Town of Middleborough or elsewhere? If yes, explain:

Signature

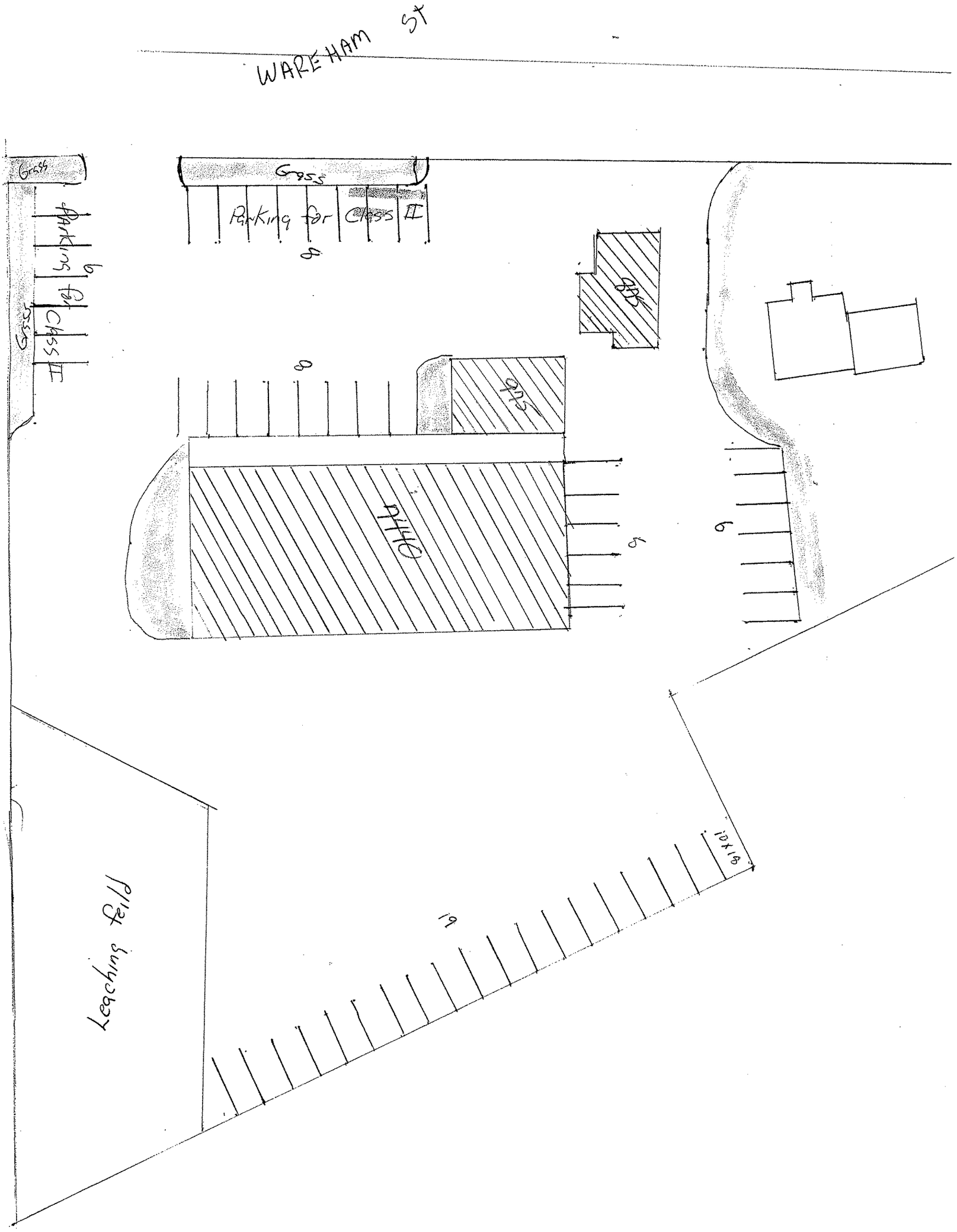
DATE OF HEARING 4/12/10 APPROVED/DENIED

Do not write below line: To be Completed by Treasurer/Collector:

Please inform this department, as well as the Board of Selectmen, as to whether or not the above listed property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and/or municipal charges that remain unpaid for more than one year.

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? NO

Emily M. Macdonald


WAREHAM ST
Grass
Parking for Class II
Grass
Parking for Class II
Grass
8
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8
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6
Leaching feild
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10x18

109-2364
109-2365
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109-3139
109-3239
109-3276
109-3935
109-4038

ANNUAL MEETING WARRANT

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School**, on **Monday, May 17, 2010, at 7:30 P.M.**, to act on the following articles:

ARTICLE 1. To hear the report of any committee or officer of the Town, to appoint any committee, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate a sum of money by taxation or from available funds in the treasury to defray expenses of the Town for the fiscal year beginning on July 1, 2010, relating to all or any of its officers, boards or departments and for purposes authorized by law, to vote to fix the salary and compensation of all elected officers, or act anything thereon.

ARTICLE 3. To see if the Town will vote to transfer from the income from the sales of gas and electricity for the purpose of fixing the tax rate a sum of money to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2011, or act anything thereon.

ARTICLE 4. To see if the Town will vote to transfer $ 66,972.60 from the receipts reserved for the Water Pollution Abatement Trust Loan Repayment Account in order to meet the Town's obligation for payment of the Water Pollution Trust Loan, or act anything thereon.

ARTICLE 5. To see if the Town will vote pursuant to Section 53E ½ of Chapter 44 of the General Laws, as amended, to authorize and/or reauthorize establishment of one or more revolving funds for the purpose of funding certain activities and operations of certain departments and programs of the Town during Fiscal Year 2011, or act anything thereon.

Municipal Fire Alarm System	**Not to exceed $15,000.00**
Hazardous Materials Incident Training & Materials	**Not to exceed $50,000.00**
Recycling Program	**Not to exceed $100,000.00**
Herring Fishery Program	**Not to exceed $100,000.00**
Composting Bin Program	**Not to exceed $2,500.00**
Recreation and Sports Program	**Not to exceed $100,000.00**
Zoning Map, Bylaws and Subdivision Rules & Regulations	**Not to exceed $2,500.00**

ARTICLE 6. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source to fund one or more collective bargaining agreements, or act anything thereon.

ARTICLE 7. To see if the Town will vote to raise and appropriate and /or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of reimbursing Town employees and retired Town employees and other persons enrolled in the Town's health insurance plans for increases in health insurance HMO and PPO deductibles and co-payments paid by said employees and other persons during Fiscal Years 2011 and in excess of the amounts of such deductibles and co-payments applicable during Fiscal Year 2010, and to pay any related costs, or act anything thereon.

ARTICLE 8. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by striking out in its entirety Section 9 pertaining to the Town Treasurer and Collector of Taxes and inserting in place thereof the following:

SECTION NINE: The Selectmen shall appoint a suitable qualified person to the office of Town Treasurer and Collector of Taxes. The existing elective office of Town Treasurer and Collector of Taxes shall be continued until the person appointed to the office of Town Treasurer and Collector of Taxes shall have qualified, at which time the elective office of Town Treasurer and Collector of Taxes shall terminate. The Selectmen shall appoint the person who is serving in the elective office of Town Treasurer and Collector of Taxes as the initial appointee as Town Treasurer and Collector of Taxes who shall receive not less than the compensation and benefits to which the elected Town Treasurer and Collector of Taxes was entitled unless modified by an employment contract which may be established. The Town Treasurer and Collector of Taxes shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon town treasurers and town collectors of taxes. The Selectmen by majority vote after notice and hearing may remove the Town Treasurer and Collector of Taxes from office for cause. The Selectmen shall forthwith appoint a suitable qualified person to fill any vacancy in the office of Town Treasurer and Collector of Taxes resulting from death, resignation, retirement, removal or other cause. The Selectmen shall determine the compensation of the Town Treasurer and Collector of Taxes and may establish an employment contract with the Town Treasurer and Collector of Taxes for a period of time to provide for salary, fringe benefits and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of duties of office, liability insurance, vacation and leave, or act anything thereon.

ARTICLE 9. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by amending subsections (A) and (B) to Section 17 of the Town Charter as follows

(A) The Board of Selectmen shall annually appoint and determine the compensation of an Attorney at Law or law firm to act as Town Counsel.

(B) The Board of Selectmen shall have the authority to prosecute, defend, and compromise all litigation to which the town is a party, and to appoint and determine the compensation of special counsel to assist the Town Counsel whenever in their judgment it may be necessary, or act anything thereon.

ARTICLE 10. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by adding the following subsections to Section 19 of the Town Charter to add specified powers and duties of the Town Manager:

(K) To prepare and submit an annual operating budget to the Selectmen. The proposed budget shall include, but not be limited to a listing of the funds requested by all boards, committees, officers, and departments of the town; shall be balanced and show both proposed expenditures and anticipated revenues. The Selectmen, after reviewing the proposed budget and

making changes it deems appropriate, shall submit its recommended budget to the Finance Committee on or before the twentieth day of January of each year for review and recommendation to town meeting.

(L) To prepare annually a five year financial forecast of town revenue, expenditures and general finance condition of the town. The forecast shall be submitted to the Selectmen who shall make it available to the public.

(M) To be responsible on behalf of the Selectmen for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of agreements made by the School Committee and the Municipal Light Board. The Town Manager in carrying out duties hereunder may engage labor counsel as he deems necessary and as approved by the Selectmen.

Notwithstanding the foregoing, the Selectmen shall retain the sole authority to approve and execute all collective bargaining agreements negotiated by the Town Manager on the Board's behalf, or act anything thereon.

ARTICLE 11. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact special legislation to provide that any agreement made by the Town with any other governmental unit under the provisions of Section 4A of Chapter 40 of the General Laws respecting the sale by the Town of water or wastewater treatment services shall be subject to authorization by the Town Meeting, or act anything thereon.

ARTICLE 12. To see if the Town will vote to accept the provisions of General Laws, Chapter 44, Section 53F ½ and establish an Enterprise Fund for the Rubbish/Trash Collection, Removal and Disposal Division of the Department of Public Works in accordance with said Section 53F ½ for Fiscal Year 2011 and subsequent years, or act anything thereon.

ARTICLE 13. To see if the Town will vote to authorize the Board of Selectmen to enter into an agreement for disposal by the Town of refuse, garbage and other solid waste on such terms and conditions as the Board may determine, or act anything thereon.

ARTICLE 14. To see if the Town will vote to transfer to the Board of Selectmen the care, custody, management and control of two parcels of land shown as Lots 1 and 2 on a plan of land dated February 10, 2002, drawn by Outback Engineering and recorded in the Plymouth County Registry of Deeds as Plan No. 250 of 2002 and also shown on the Assessors' Map described below, for the purpose of sale of the parcels, and to authorize the Board of Selectmen to sell and convey the parcels on such terms and conditions as the Board of Selectmen may determine, or act anything thereon.

	Map #	Parcel #	Location	Land Area
1.	48	3832	West Grove Street	5.62 acres
2.	48	3042	West Grove Street	28.30 acres

ARTICLE 15. To see if the Town will vote to transfer the care, custody, management and control of the Rock Village School property at 63 Miller Street shown as Lot 923 on Assessors Map 87 to the Board of Selectmen for the purpose of sale of the property, and to authorize the Board of Selectmen to sell the property on such terms and conditions as the Board determines, or act anything thereon.

ARTICLE 16. To see if the Town will vote to transfer to the Board of Selectmen the care, custody, management and control of a parcel of land on Lake Shore Drive at Navaho Lake

Shores shown as Lot 5856 on Assessors Map 35, also shown as Lot 36 on a plan of Whispering Pines dated April 1952, for the purpose of sale or conveyance of the parcel, and to authorize the Board of Selectmen to sell and/or convey the parcel to Frances Stanizzi or other person(s) on such terms and conditions as the Board of Selectmen determines including conveyance for nominal consideration, or act anything thereon.

ARTICLE 17. To see if the Town will vote to authorize the Board of Selectmen to acquire easements in two parcels of land by gift, purchase or eminent domain in connection with the project to rehabilitate the Summer Street Bridge over the Taunton River, such parcels being shown on a plan entitled "Preliminary Right of Way Plans for Summer Street Bridge – Bridgewater/Middleborough" dated October 9, 2009 revised December 22, 2009 prepared by Jacobs Engineering Group as follows:

Parcel #	Property Owner	Area
E-1	Brooks	270 square feet
E-2	Pocius	498 square feet

, or act anything thereon.

ARTICLE 18. to see if the Town will vote to authorize the Board of Selectmen to acquire easements in parcels of land by gift, purchase or eminent domain in connection with the project to mitigate pollution to the Nemasket River, or act anything thereon.

ARTICLE 19. To see if the Town will transfer the management and control of a parcel of land on Wareham Street (Route 28) shown as Lot 4356 on Assessors Map 110 to the Middleborough Gas & Electric Department Light Board for purposes of the Gas & Electric Department Light Board for purposes of the Gas & Electric including without limitation leasing all or a part of the parcel to a third party, and to authorize the Light Board to lease all or part of the property Algonquin Gas Transmission, LLC or other party on such terms and conditions which may be approved by the Light Board, or act anything thereon.

ARTICLE 20. To see if the Town will vote to include acquisition of a Supervisory Control and Data Acquisition (SCADA) system in the water system improvements project voted under Article 12 of the warrant for the September 23, 2003 Special Town Meeting, or act anything thereon.

ARTICLE 21. To see if the Town will vote to appropriate the sum of $6,000,000 for the purpose of improving the water system; and further to authorize the Town through the Treasurer, with the approval of the Commissioners, to borrow said $6,000,000.00, or any portion thereof, and issue bonds or notes therefore under Section 8(4) of Chapter 44 of the General Laws or any other enabling authority, or Chapter 29C of the General Laws; and further to authorize the Treasurer with the approval of the Board of Water Commissioners, to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, or any other fund established in connection with the Safe Water Drinking Act, and in connection therewith to enter into a loan agreement and/or security agreement with the Trust, or any other such pertinent fund administrator, and otherwise to contract with the Trust and/or the Department of Environmental Protection with respect to such loan and with respect to any federal or state aid available for the project, or for the financing thereof, or for reimbursement of costs incurred in connection therewith' and further to authorize the Board of Water Commissioners to enter into a project regulatory agreement with the Department of Environmental Protection, to extend al funds available for the project, and to take any other action ordered to the purposes of carrying out the project, or act anything thereon.

ARTICLE 22. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to allow the Board to impose reasonable fees for the employment of outside consultants under the provisions of General Laws Chapter 44, Section 53G in connection with its review of earth removal permit applications under the Town's Earth Removal By-law, or act anything thereon.

ARTICLE 23. To see if the Town will vote to amend its Earth Removal By-law by deleting the first four sentences of the first paragraph of Section 5 and replacing them with the following:

Section 5

An earth removal permit may be issued for a period of up to three (3) years. If a project is not completed during the initial permit period, a permit may be extended up to one (1) year beyond the initial permit period, provided, however, that no permit may be extended unless an application therefore is filed no later than three (3) months before expiration of the initial permit period. If an earth removal project is not completed during the initial permit period and any permit extension period, a new permit to complete the project shall be required, provided, however, that a new permit to complete a project may not be issued until three (3)years have elapsed after expiration of the initial permit period and any permit extension period. Any project which is the subject of an earth removal permit or extension permit and which permit is in effect on January 1, 2010 shall not be subject to a three (3) year delay after expiration before issuance of a new permit to complete the project as set forth in the previous sentence. An applicant for a new permit to complete a project shall comply with all requirements of the by-law and regulations in effect when the application for a new permit is filed, or act anything thereon.

ARTICLE 24. To see if the Town will enact the following By-Law:

Section 1. The purpose of this by-law is to eliminate dog feces as a public nuisance in the Town of Middleborough.

Section 2. A dog owner or other person in control of a dog when the dog is on or about a public street or way, public sidewalk, public building, public land, any park open to the public, a vehicle parking lot open to the public or private property not owned by the dog owner or person in control of the dog, shall remove all dog feces excreted by the dog on or about any such location within ten (10) minutes of excretion.

Section 3. A dog owner or other person in control of a dog at any of the locations set forth in Section 2 shall have in his/her possession a means to remove all feces excreted by the dog. The means may include a device, tool or implement manufactured for the purpose of collecting dog feces or any other sanitary means of removal of dog feces including but not limited to a plastic container or rubbish/trash/garbage bag.

Section 4. Any person who removes dog feces pursuant to the requirements of Section 3 shall dispose of the same in a privately-owned rubbish/trash/garbage container.

Section 5. This by-law shall not apply to dog feces generated by Seeing Eye dogs or other guide dogs trained to lead the blind when the dog is accompanied by the dog's owner or to dog feces generated by a dog accompanied by a person with a disability which person by reason of disability is unable to comply with the requirements of the by-law.

Section 6. A violation of any provision of this by-law shall be punished by a fine of $50.00 dollars.

, or act anything thereon.

ARTICLE 25. To see if the Town will vote to raise and appropriate and/or transfer from taxation, free cash, another specific available fund, the Stabilization Fund, and existing appropriation or account or other available source, or by borrowing, a sum of money up to $400,000 to supplement the FY10 School Department's Operating Budget for additional out-of-district program tuitions, or act anything thereon.

ARTICLE 26. To see if the Town will vote to raise and appropriate and/or transfer from taxation, free cash, another specific available fund, the Stabilization Fund, and existing appropriation or account or other available source, or by borrowing, a sum of money in the amount of $36,357 to replace the elevator cylinder and make related repairs at Middleborough High School, or act anything thereon.

ARTICLE 27. To see if the Town will vote to raise and appropriate and/or transfer from taxation, free cash, another specific available fund, the Stabilization Fund, and existing appropriation or account or other available source, or by borrowing, a sum of money up to $275,000 to remodel, reconstruct and make necessary related repairs to the Middleborough High School plaza deck/front entranceway and walk-way, or act anything thereon.

ARTICLE 28. To see if the Town will vote to raise and appropriate and/or transfer from taxation, free cash, another specific available fund, the Stabilization Fund, and existing appropriation or account or other available source, or by borrowing, a sum of money up to $32,400 to replace the air conditioning compressors and make related repairs at the John T. Nichols, Jr. Middle School, or act anything thereon.

ARTICLE 29. To see if the Town will vote to raise and appropriate and/or transfer from taxation, free cash, another specific available fund, the Stabilization Fund, and existing appropriation or account or other available source, or by borrowing, a sum of money up to $20,000 to replace the roof and make other structural repairs to the exterior of the Green School, or act anything thereon.

ARTICLE 30.

SECTION XIX

MILL CONVERSION OVERLAY DISTRICT (MCOD)

A. The purpose of this Section is to create an overlay district:
1. to allow for conversion of Middleborough's historic mills while preserving the character of nearby residential and commercial neighborhoods;
2. to encourage the preservation, reuse and renovation of historic mill properties; and
3. to promote diversified housing opportunities and uses such as commercial, retail or office use, or a combination of such uses.

B. **Overlay District.** The Mill Conversion Overlay District (MCOD) is hereby established and shall be construed as an overlay district. Within the MCOD all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide an alternative to such requirements.

C. **Location.** The MCOD shall consist exclusively of the following properties:
1. The Abbot Mill on Pleasant Street – Forge Village, consisting of

Map 53 Parcels 11, 15 and 110.
Parcel 11: Corner of Pleasant and Bradford Streets – 41,874 square feet.

Parcel 15: Pleasant Street – Subdivided to Parcel A – 420,692 square feet on Plan entitled "Proposed Subdivision and Mill Conversion Overlay ("MCOD")," scale 1"=150', dated April 19, 2000.
Parcel 110: Pleasant Street – 10,125 square feet.

2. The Abbot Worsted Mill on North Main Street – Graniteville, consisting of Map 30 Parcels 68, 69, 70, 71, 72 and 73.
Parcel 68: 1.2 acres with frontage on River Street.
Parcel 69: .218 acre (9,496 square feet) off Broadway Street.

D. Special Permit Required. Within the MCOD, a MCP may be constructed upon the issuance of a special permit by the Zoning Board of Appeals, and upon site plan approval pursuant to Section 9.4, subject to the requirements set forth herein. No other use or structures shall be permitted in conjunction with an MCP, except as specifically provided herein.

E. Special Permit Granting Authority. The Zoning Board of Appeals shall serve as the special permit granting authority pursuant to this section. An application for a special permit shall be governed by the following rules.

F. Application. An application for a special permit shall be submitted to the Zoning Board of Appeals on forms furnished by the Zoning Board of Appeals in accordance with its regulations. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of G.L. c. 41, ss. 810 and 81T as the same may be from time to time amended and the Regulations of the Zoning Board of Appeals and a filing fee determined in accordance with said Regulations. In addition the applicants shall submit:

1. *Plans*. The following plans:
   a. a site plan and all supporting documents as set forth in Section 9.4;
   b. a plan at a scale of 1" = 40' showing the topography of the site at a minimum of two foot intervals, as well as vegetation and special features, including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more than 8" caliper, rock outcroppings, slopes in excess of 15%, existing and proposed trails and paths, open vistas, structures of historical importance and biological or wildlife habitats, and proposed conservation and recreation easement areas;
   c. a plan illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, and typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be subsequently required by the Zoning Board of Appeals;
   d. a floor plan to scale for each floor of each building indicating, if applicable:
      i. number of units;
      ii. number of bedrooms;
      iii. proposed use of the floor space; and
      iv. location of affordable dwelling units;
   e. a plan describing the care, custody and control of all dams and water rights; and
   f. a plan for any waste water treatment facility.
2. *Narrative Reports*. The following narrative reports or data:
   a. a proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;

b. a development impact statement prepared by qualified professionals detailing the impact of the development, at all phases including construction and operation, on:
   i. the Town's capacity to furnish services including, but not limited to, roads, police, fire, emergency services, schools, and water; and
   ii. vehicular and pedestrian traffic, water and air quality, noise and light pollution and other environmental concerns;

c. information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;

d. copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;

e. a concise narrative prepared by a preservation consultant including any and all historical information to be submitted to the Middleborough Historical Commission and Zoning Board of Appeals. The narrative will include:
   i. architectural history of all structures on the site, including period, style, method of building construction, and association with any particular architect or builder.
   ii. any important association with one or more historic persons or events.
   iii. any cultural, political, economic or social history of the site or any structures to the Town, Commonwealth of Massachusetts or the United States of America.

f. evidence that the proposed MCP is consistent with applicable standards of the of the National Park Service or the Middleborough Historic Commission; and

g. any and all other information that the Zoning Board of Appeals may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

3. *Fees*. The following fees:
   a. Technical Review Fee. The applicant shall pay a technical review fee pursuant to G.L. c. 44, s. 53G and the rules of the Zoning Board of Appeals.
   b. Administrative Fee. The applicant shall pay an administrative fee pursuant to the rules of the Zoning Board of Appeals.

4. *Waiver*. The Zoning Board of Appeals may waive the submittal of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Zoning Board of Appeals' decision pursuant to this section.

G. Review by Other Boards. Whenever an application for a special permit for a MCP is filed with the Zoning Board of Appeals, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Highway Superintendent, Police Chief, Fire Chief, and the Town Engineer for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. Reports from other boards and officials shall be submitted to the Zoning Board of Appeals by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Zoning Board of Appeals is held prior to the expiration of the 35 day period, the Zoning Board of Appeals shall continue the public hearing to permit the formal submission of reports and recommendations within that 35 day period. The

Decision/Findings of the Zoning Board of Appeals shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

H. Standards. In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

1. *Buffer.* A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site; provided, however, that existing structures and existing access roadways are exempt from the requirements set forth herein. However existing structures and parking areas shall not be made more non-conforming except for ADA compliance. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Zoning Board of Appeals may waive the buffer requirement:
   a. where the Zoning Board of Appeals determines that a smaller buffer will suffice to accomplish the objectives set forth herein; or
   b. where the construction of a wastewater treatment plant necessitates such relief.
2. *Removal and Replacement of Vegetation.* Within the site, no clear cutting shall be permitted, except as authorized by special permit and incidental to construction of buildings, roads, trails and parking areas. The Zoning Board of Appeals may require suitable landscaping or replacement of vegetation.
3. *Roadways.* The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.
4. *Number of Parking Spaces.* The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of Section 5.1 or other applicable provision herein. The Zoning Board of Appeals may increase the required parking by up to 10% to serve the needs of residents, employees, visitors and service vehicles. The Zoning Board of Appeals may reduce the otherwise required number of parking spaces where the applicant demonstrates that an adequate number of spaces will be provided.
5. *Commercial Vehicles.* Commercial vehicles owned or operated by owners or tenants of the MCP, or their agents, servants, licensees, suppliers and invitees shall be parked inside a garage, or suitably screened or designated area, except for delivery or service vehicles in the active service of receiving and delivering goods or services.
6. *Parking Areas.* All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width. Parking lots shall be located to the rear or side of all buildings and shall not be located in front setbacks or in buffer areas; provided, however, that the Zoning Board of Appeals may waive these provisions for existing parking lots and/or existing buildings. Parking lot layouts shall be planned to permit landscaping, buffers, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. In parking areas of eleven or more parking stalls, at least one tree of three-inch or greater caliper shall be planted for every six parking places. Adequate tree wells and irrigation shall be provided for all parking lot landscaping. Pedestrian access is to be taken into consideration in parking lot design. The use of separate walkways is encouraged. Textured paving or grade separated (elevated) walkways are desired on all pedestrian access ways.
7. *Paving.* Paving should be textured or of different materials at pedestrian crossings and walkways. The use of stone, brick or cultured stone pavers for entrance walkway

borders is encouraged. The use of textured materials for walkway borders is encouraged.

8. *Paths.* The Zoning Board of Appeals may require paths which shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways or sidewalks to adjacent sites.
9. *Loading.* Loading areas may be required by the Zoning Board of Appeals where deemed necessary for the efficient operation of the MCP. Loading areas must be at least 20 X 9 feet, and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.
10. *Stormwater Management.* The stormwater management system shall be designed in accordance with the Regulations of the Zoning Board of Appeals.
11. *Utilities.* All electric, gas, telecommunications, and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water system.
12. *Emergency Systems.* The MCP shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Middleborough Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.
13. *Lighting.* Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources.

I. **Number of Dwelling Units.** The maximum number of dwelling units shall be established by the Zoning Board of Appeals after reviewing the following criteria:

1. Existing structures;
2. Proposed method and efficacy of wastewater disposal;
3. Availability of public water;
4. Trip generation, traffic safety and internal site traffic;
5. Character of the proposed MCP and its relation to the surrounding neighborhood(s);
6. Character of the existing buildings and the potential for reuse thereof;
7. Number of affordable units, beyond the minimum required, proposed by the applicant;
8. Development Impact Statement;
9. Applicability of the Water Resource Protection Overlay District, Section 8.1, herein; and
10. Reports of the technical consultants of the Zoning Board of Appeals and all other reviewing boards.

J. **Number of Bedrooms.** The Zoning Board of Appeals may ensure the diversification of dwelling units within a MCP by establishing the number of dwelling units with one, two, or three bedrooms; but not more than 10% shall be three bedrooms.

K. **Expansion of Existing Buildings.** Existing buildings within a MCOD may be expanded, provided that such expansion:

1. is consistent with the existing buildings historic character and scale; and
2. does not cause substantial detriment after considering the factors set forth in Section 8.5.14.

L. **New Buildings.** Within the MCP, new buildings may be constructed in accordance with the following requirements:

1. The number, type, scale, architectural style, and uses within such new buildings shall be subject to Zoning Board of Appeals approval.

2. New buildings shall be permitted only to the extent reasonably necessary to provide for essential services such as, but not limited to, wastewater treatment facilities.

M. Affordable Dwelling Units. [Amended 05-06-06 ATM Art. 27] As a condition of the grant of any special permit for a MCP, a minimum of twenty-five (25%) of the total number of dwelling units shall be restricted in perpetuity in the following manner:

1. 5% of the units shall be affordable to persons or families qualifying as low income; and
2. 10% of the units shall be affordable to persons or families qualifying as moderate income; and
3. 10% of the units shall be affordable to persons or families qualifying as median income.
4. The perpetuity restriction shall be approved as to form by legal counsel to the Zoning Board of Appeals, and a right of first refusal upon the transfer of such restricted units shall be granted to the Middleborough Housing Authority for a period not less than 120 days after notice thereof.
5. Affordable units shall be integrated into the overall development of the MCP so as to prevent the physical segregation of such units.
6. The Applicant shall be encouraged to seek designation of the units referenced in paragraphs 8.5.13.1 and 8.5.13.2 as affordable units which qualify as part of the subsidized housing inventory as approved and complied by the Department of Housing and Community Development (DHCD). The Zoning Board of Appeals may require that the Applicant affirmatively take steps to utilize the Middleborough Housing Authority, a public agency, a non-profit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Program Petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in said paragraphs as affordable units qualifying as part of the subsidized housing inventory. The Zoning Board of Appeals may require submission of application, forms and appropriate information to the DHCD as a condition of approval.

N. Action by the Zoning Board of Appeals. The Zoning Board of Appeals after considering reports from consultants and other Boards and/or Commissions, may grant a special permit for a MCP where it makes the following findings:

1. The proposed MCP constitutes an appropriate renovation as defined above; and
2. The proposed MCP does not cause substantial detriment to the neighborhood after considering the following potential consequences:
    i. noise, during the construction and operational phases;
    ii. pedestrian and vehicular traffic;
    iii. environmental harm;
    iv. visual impact caused by the character and scale of the proposed structure(s); and
    v. for the consequences as may be set forth in the Development Impact Statement for the MCP.

, or act anything thereon.

ARTICLE 29. To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitting by said Act, including the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided under said Act; to levy a 1% surcharge of the annual real estate tax against

real property, to accept a $100,000 exemption from the surcharge, as well as the exemption of property owned and occupied by a person who would qualify for low income housing or low or moderate income senior housing in the town, as permitted under Section 3(e) of said Act; or to take any other action relative thereto.

By Petition

ARTICLE 30. To see if the town meeting will vote to enact the following addition to the Town Charter:

To see if the town meeting will vote to enact the following addition to the Town Charter:
TERM LIMITS
Beginning with the 2011 Annual Town Election, no elected Town Official shall serve more than 2 consecutive terms of office at any one time. Additionally, any Town Official who has served 2 consecutive terms, shall not be able to run for the same Board or position until his or her successor has served at lease one full term.

By Petition

ARTICLE 31 . To place on the town meeting warrant and article to accept Gibbs Road as a street in Middleboro.

By Petition

Given, under our hands at Middleborough, this ___ day of ___, 2010.

_____

_____

_____

_____

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the ___ **day of May, 2010**, that date being more than seven days before the time specified for said meeting.

_____
BRUCE GATES
Police Chief

Ryan Vlaco
ER Permit #07-3

Conditions for Earth Removal

RYAN VLACO
Pine Street
Middleborough, Massachusetts
Assessors Map 097 and Lot 3478
98,500cubic yards

1. This permit is valid for two (2) years and may be renewed for up to one (1) year thereafter at the discretion of the Board of Selectmen after meeting with the applicant.

2. Hours of operation are limited from 7:30 A.M. to 4:30 P.M. Operation is only allowed on Monday through Friday. Motors of earth removal equipment, including trucks hauling material to and from the site, are not to be started or run until 7:30 A.M. Trucks are not to line up before the start time or sit idling. There will be no jake braking.

3. No operation is allowed on Saturday, Sunday or Town Hall observed holidays:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents Day	Veteran's Day
Patriots Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
July 4th	Christmas Day

4. All excavated areas not part of the bogs will be topsoiled and planted per the specification on the plan or at the direction of the Board. All top and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the removal operation has ceased. A minimum of four inches of topsoil must be put back in place.

5. Excessive erosion is to be controlled as determined by the Board of Selectmen or its agent.

6. An initial review to confirm compliance with permit conditions and restrictions must be performed by the Board's Agent before the commencement of any earth removal activities. The fee for this review is $ 400.00 , due and payable at the time the permit holder notifies the Board's Agent that all requirements of the permit which must be done prior to commencement of work have been accomplished, and the permit holder is ready for the Agent to perform the initial review.

7. Quarterly reviews must be performed by the Board's Agent every three months following commencement of earth removal work. These reviews will include a field review and plan review to determine on-going compliance with the permit. The fee for each such review is $ 400.00 , due and payable to the Town three months after the commencement of earth removal on the lot and every three months thereafter for the duration of the permittal project.

8. The plans, entitled, " Plan to Accompany Earth Removal Application – Pine Street – Middleborough, MA - Prepared for Ryan Vlaco ", dated February 14, 2007 is incorporated herein by reference and is part of this permit, and must be adhered to strictly. Failure to do so constitutes a violation of this condition of the Permit. A copy of the Plan and Order of Conditions must be kept on the lot at all times when the lot is being worked, pursuant to this permit.

9. A bond, or acceptable alternative surety, in the amount of $ 50,000 will be required to indemnify the Town for damage to private or Town property and for use by the Town for site closure in the event of abandonment of the project.

10. Standard highway signs warning of heavy trucks entering the highway shall be erected as directed by the Board of Selectmen or their Agent and be in place prior to commencement of removal operations.

11. The Selectmen, Conservation Commission, Town Manager or their Agents shall be free to inspect the premises at any time during normal working hours with or without prior notice to the permit holder.

12. The permit holder is advised that no work may commence until he has filed a Notice of Intent under Chapter 131, Section 40, and received an Order of Conditions from the Conservation Commission. A violation of the Order of Conditions issued by the Conservation Commission shall be a violation of this permit.

13. The permit holder shall adhere to all State laws pertaining to covering loads and weight loads.

14. Any spillage on public ways or private property shall be cleaned up by the permit holder or its agent.

15. All access to and from the permitted property will be Right or Left on Pine Street to Rte. 28 or Rte. 58

16. The Board of Selectmen may, following a public hearing, revoke the permit, modify or revise the conditions of the permit and/or impose a fine if they find

that the permittee, or any agent of the permittee, violates any condition of this permit.

17. No refining or screening of material is allowed on the permitted property except the screening of sand and loam to be used for on-site cranberry bogs, gravel for on-site roadways and loam for final on-site grading and seeding.

18. The Town Manager is authorized to act as the Selectmen's Agent in the administration and enforcement of this permit.

19. The haul road and loading area must be watered regularly to keep dust from blowing from the property. Gravel may be required to be added to the haul road by the Board's Agent to assist in dust control.

20. This permit is not transferable, except by vote of the Board of Selectmen. Notice of a pending sale or transfer must be provided to the board. The Board may, in its discretion, hold a public hearing to consider the transfer of this permit to the prospective buyer of the property.

21. During operations, where the excavation working face will have a depth of more than 15 feet with a slope in excess of 1:1, a fence at least three (3) feet high shall be erected to limit access to that excavation.

22. No area shall be excavated so as to cause accumulation of freestanding water, except in conjunction with a storage pond for cranberry bogs as shown on the record plans. Permanent drainage shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into or from streams or ponds, except as shown in the plan.

23. No excavation shall be closer than 200 feet to an existing public way unless specifically permitted by the Selectmen. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.

24. Bog pumps will be powered electrically, or in the alternative, mufflers will be installed on pumps to reduce noise.

25. Two by Three foot signs will be erected every 500' along the property line. The signs will display the permit number, the name and phone number of the permit holder's agent and the name and phone number of the Board of Selectmen's Agent, together with the words "NO TRESPASSING-EARTH REMOVAL IN PROGRESS".

26. All trucks hauling from the site must display a sign on the rear of the truck in an area that will be unobstructed and clearly in view displaying the words "TOWN OF MIDDLEBOROUGH PERMIT # 07-3 _____.

27. A copy of this Earth Removal Order of Conditions shall be filed with the Registry of Deeds by the Permit holder as a notice to all that these conditions restrict work on the lot under the permit.

28. A Certificate of Compliance will be issued by the Board of Selectmen when the project is completed. The Certificate of Compliance will operate to release the lot from the conditions of the permit and terminate the permit. The Certificate of Compliance must also be filed with the Registry of Deeds by the permit holder.

Wayne C. Perkins, Chairman
BOARD OF SELECTMEN

4-4-07
Date

Commonwealth of Massachusetts
County of Plymouth

On this 4th day of April, 2007, before me the undersigned Notary Public, personally appeared Wayne C. Perkins, proved to me through satisfactory evidence of identification which was/~~were~~ personal Knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose(s).

Signature of Notary

(Seal)
My commission expires

DIANE M. HENAULT
NOTARY PUBLIC
Commonwealth of Massachusetts
My Commission Expires
August 2, 2013

*New. As of 4-9-10

PROPOSED REVISIONS TO EARTH REMOVAL PERMIT CONDITIONS

This Proposal sets forth the proposed revisions requested by Ryan Vlaco, of 17 Pine Street, P.O. Box 107, Middleboro, Massachusetts 02346 (hereinafter referred to as "Vlaco") pertaining to that certain Earth Removal Permit #07-3 and associated Conditions for Earth Removal, dated April 4, 2007, and recorded at the Plymouth County Registry of Deeds in Book 34394, Page 258, (hereinafter referred to as the "Earth Removal Permit"), granted to Vlaco pertaining to property owned by him and located at 17 Pine Street, Middleboro, Massachusetts, being more particularly shown as Map 97, Lot 2655 as shown on the Assessors Maps of the Town of Middleboro.

WHEREAS, on or about April 4, 2007, the above-referenced Earth Removal Permit was issued to Ryan Vlaco by the Town of Middleborough Board of Selectmen;

WHEREAS, Paragraph 1 of the Earth Removal Permit provides, "This permit is valid for two (2) years and may be renewed for up to one (1) year thereafter at the discretion of the Board of Selectmen after meeting with the Applicant";

WHEREAS, as of this date, such Earth Removal Permit has not been renewed or extended and the earth removal activity contemplated by such permit has not been completed by Vlaco;

WHEREAS, Vlaco desires to complete the work called for under the Earth Removal Permit as revised by the terms of these proposed revisions and shown on a plan entitled, "Revised Plan of Earth Removal, Prepared for Ryan Vlaco, Drawn By: Foresight Engineering, Inc., dated 3/24/2010, Scale 1"=60'" (hereinafter referenced as the "Plan").

WHEREAS, pursuant to the afore-referenced permit, Vlaco is hereby requesting a extension until September 15, 2010, to complete the work contemplated by the Earth Removal Permit.

Concerning the foregoing, Vlaco hereby requests that the following proposed revisions and amendments to the Earth Removal permit are granted by the Town of Middleboro Board of Selectmen:

1. The description of the subject premises is revised to indicate that the permitted premises is Map 97, Lot 2655, as shown on the Assessors Maps of the Town of Middleboro. The original Earth Removal Permit granted indicates that the subject premises is Map 97, Lot 3478, as shown on the Assessors Maps of the Town of Middleboro. Map 97, Lot 3478, was a 30.1 acre parcel of land a portion of which was premises affected by the subject Earth Removal Permit. Map 97, Lot 2655 is a 11.8 acre parcel of land which is subject to the remaining earth removal activities contemplated herein.

2. The earthen berm created by Vlaco along the boundary line with the land of Dennis and Donna McLeod, being shown as Assessors Map 96, Lot 3269 and the land of Glen and Joanne Hayes, being shown as Assessors Map 97, Lot 2512, will be removed and the grade brought down to elevation approximately even with the McLeod's and Hayes' back yard (elevation 86), as more particularly shown on the afore-referenced Plan.

3. The grade at +/- 86 would then be held as shown on the attached Plan, feathering as it traversed toward the Hayes property—forming a triangular piece of level ground, again being more particularly shown on the attached Plan.

4. In the area delineated "No Further Disturbance Zone" on the attached Plan, trees have been cut and excavation has taken place. However, no additional trees will be cut or excavation undertaken by Vlaco, both during the duration of the subject earth removal or at any time thereafter. However, notwithstanding the foregoing, as indicated in Paragraphs 2 and 3 herein, Vlaco will level the earth berm located in such "No Further Disturbance Zone". A recordable restrictive covenant running with the land will be recorded in order to ensure that no such trees will be cut or excavation undertaken by Vlaco in the aforesaid area delineated as "No Further Disturbance Zone".

5. Vlaco will complete the grading, loaming, and seeding of all slopes shown on the attached Plan in order to stabilize the same, improve aesthetics of the subject premises, and reduce dust and windblown debris. Such slopes are to be inspected and approved by the Town of Middleboro DPW Director in order to ensure proper stabilization in order to ensure compliance with the provisions hereunder.

6. The existing loam piles on the Vlaco site are to be removed from the site over the course on or before September 15, 2010. Such loam piles and any excess material from the construction of the proposed cranberry bog at the subject premises will be the only remaining material removed from the site. No further site excavation, except to the extent necessary to construct the proposed cranberry bog as shown on the attached Plan will occur. Removal of loam, slope and site stabilization, and grading and bog construction (though not vine planting) will be fully completed by September 15, 2010.

7. Vlaco will maintain a bond, or acceptable alternative surety in the amount of $50,000.00 in order to indemnify the Town for damage to private or Town property and for use by the Town for site closure in the event of abandonment of the project.

8. The terms and conditions of the Earth Removal Permit #07-3 and associated Conditions for Earth Removal, dated April 4, 2007, and recorded at the Plymouth County Registry of Deeds in Book 34394, Page 258, are hereby incorporated by reference hereto, except to the extent they are amended by these proposed revisions.