

Background Materials – August 29, 2022– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 8/26/22

Cable Access Channel 15 – Cable Access Channel 15 – The Cable Studio has indicated that this meeting will be live streamed on Channel 15.

AGENDA ITEM #1 Open Comment Period

This 10-minute period is set aside for the public to offer comments on items not on the posted agenda, in accordance with the adopted policy, as amended 8/8/22, posted on the Town of South Hadley Planning and Conservation Department webpage here:

<https://southhadley.org/DocumentCenter/View/9842/Open-Comment-Period-Policy---As-Adopted-2022-08-08>

Action Needed: Allow members of the public to offer comments to the Board.

AGENDA ITEM #2 Minutes

Senior Clerk Colleen Canning will forward minutes separately.

Action Needed: Vote to approve the minutes.

AGENDA ITEM #3 Correspondence

A list of correspondence received is attached.

Action Needed: No action needed.

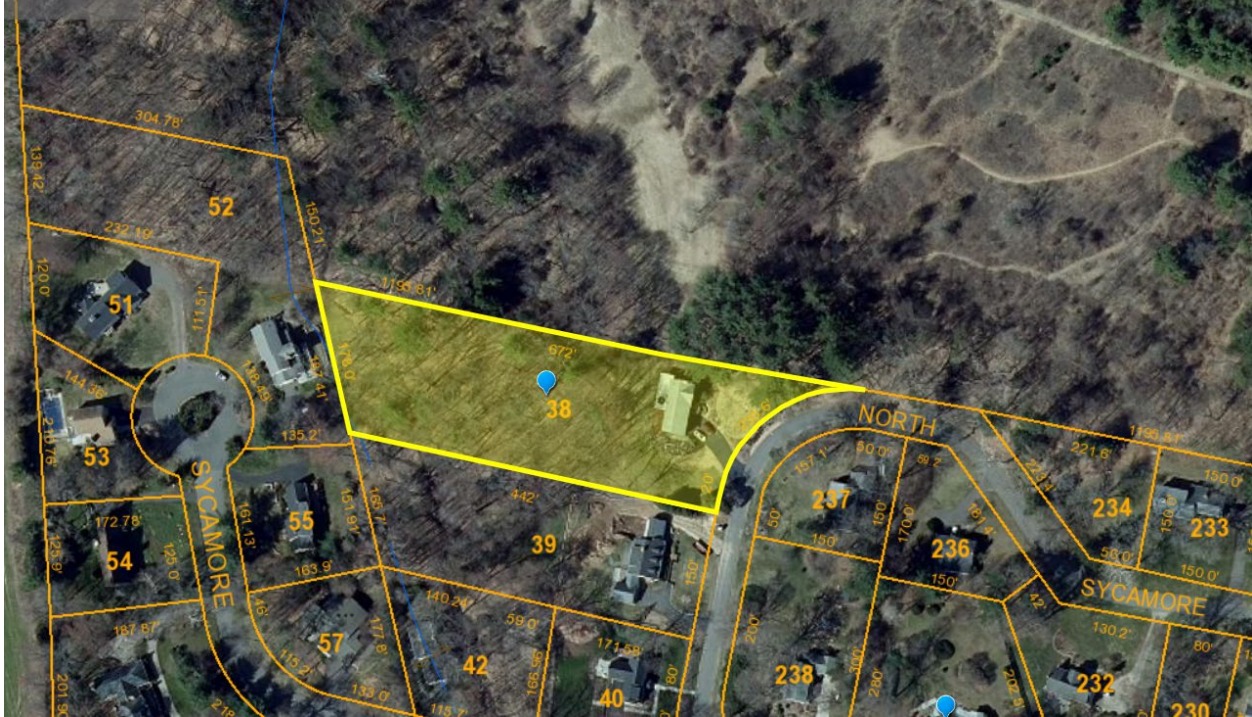
6:30PM AGENDA ITEM #4

17 North Sycamore Knolls Bed and Breakfast Home Special Permit

Project application is online here: <https://www.southhadley.org/1233/11682/North-Sycamore-Knolls-17?activeLiveTab=widgets>

255-39 Bed and Breakfast Facilities: <https://ecode360.com/30053385>

The applicant received a cease and desist order from the Building Commissioner for the operation of a short term rental, as advertised on AirBnB. The Order required the applicant to obtain a Special Permit for a Bed and Breakfast Home under the zoning bylaw 255-39 in order to continue operations. The subject property is an owner-occupied single-family residence located on a 2-acre lot within the RA-1 zoning district. The application states that they offer one guest room with an adjoining bathroom for overnight lodging to paying guests. Per the application, the short term rental meets the BnB Home standards.



Departmental Comments:

Missy Couture, Assessor – No comments.

Mark Aiken, District 2 Water Department – No comments.

Chief Gundersen, Police Department – No comments.

Action Needed: Hold the Public Hearing. Evaluate the application against 255-129 Mandatory Standards. If the Board closes the Public Hearing, a Decision must be made within 90 days and filed with the Town Clerk. The Board must make a finding on each of the Special Permit mandatory standards.

Recommended Special Conditions:

1. Obtain a business license from the Town Clerk (Bed and Breakfast Home).
2. Obtain a Lodging House license from the Health Department.
3. Compliance with building code and fire code regulations are required.
4. One vehicle per short-term guest, and parking must be provided off street.
5. There shall be no exterior modifications to the dwelling or property for the short-term rental accommodation.
6. Premises must remain owner occupied while short-term rental guest is boarding.
7. The applicant must obtain all other local, state, and/or federal approvals for the activity authorized by the Special Permit.

Recommended Motion: Move to issue a Special Permit with Conditions for a Bed and Breakfast Home at 17 North Sycamore Knolls.

7:00PM AGENDA ITEM #5

24 Riverlodge Road (Map 44, Parcel 71) Site Plan Review

Plans are online here: <https://www.southhadley.org/1236/11691/Riverlodge-Road-24---2022?activeLiveTab=widgets>

The property owner, Anthony Witman, received a cease and desist order from the Building Commissioner David Gardner stating that under the Zoning Bylaw Chapter 255 Use Regulations Schedule, agricultural activities on parcels less than five acres, within the Agricultural Zoning District, require Site Plan Review (SPR) by the Planning Board. Thus, Mr. Witman has filed for SPR for raising “livestock and poultry with the intention of providing a renewable sustainable food source”.

The property is 1.42 acres located at Assessor’s Map 44, Parcel 71, within the Agricultural Zoning District. The parcel has frontage on Riverlodge Road and abuts to the rear Mr. Witman’s residential dwelling at 7 Misty Court. Although the Riverlodge Road parcel abuts his residential dwelling property, Town Counsel in April 2022 reviewed this situation on behalf of the Town and determined that although the adjacent lots were under common ownership, both were dimensionally conforming and thus not considered merged. As such, the agricultural use at 24 Riverlodge Road was not considered accessory to the principal residential use at 7 Misty Court, but rather a principal use at 24 Riverlodge Road, and thus, requires SPR.

What standards should be applied under Site Plan Review for agricultural uses?

As stated above, Chapter 255 Zoning, Attachment 1 Use Regulation Schedule, requires SPR for “agricultural, horticultural, or floricultural uses on parcels of less than five acres, as provided in Article VII” for all zoning districts except Res A-1 and the three Industrial Districts where such use is prohibited on less than five acres. Article VII are the “Supplemental District Regulations”, and within that, Chapter 255-25 Agricultural, horticultural and floricultural uses address such use. This section is somewhat confusing, but in general, the restrictions listed within this section of the bylaw are explicitly not applied to parcels less than five acres in Agricultural Districts per 255-25 (D). The Building Commissioner and I agree that the raising of poultry and livestock on the subject parcel is permissible under the Zoning Bylaw provisions stated above, with SPR by the Planning Board, and compliance with any applicable building codes. Therefore, we are left with the Site Plan Review Criteria 255-148. SPR Spreadsheet with criteria attached for your use. Refer to applicant’s responses in his application “Section 3”.

Structures and other facilities on the subject property

Fences – Zoning Bylaw 255-32 Fences or Walls in residential districts only applies to “residential districts” and thus is not applicable to the “agricultural” district.

Animal Keeping Facilities - Dave Gardner, Building Commissioner, 8/24/22: “24 Riverlodge Road’s principal use is agricultural. Structures used for housing the goats and chickens (or any farm animal) are principal use structures that must observe the minimum setback requirements

for principal uses. Setbacks per the Dimensional Regulations Schedule are: Front: 40'; Side(s): 20'; Rear: 25'. It appears that structures currently located on the site used for housing animals may not meet the minimum setback required at the rear property line."

Action Needed: Review application and evaluate the project against SPR criteria in 255-148. Prior to granting site plan review approval, the Planning Board must make a finding that the Board determines the proposed development will have a de-minimis impact relative to the criteria set forth in § 255-148.

Recommended Motion: Move to determine that the proposed agricultural activities have a de-minimis impact relative to the criteria set forth in 255-148, and grant approval with the following conditions:

1. All structures on the property must meet zoning setbacks and building code requirements.
2. If manure is stored and composted on site, the applicant must submit to the Board amended plans for SPR.

AGENDA ITEM #6 188X / Lot 1 Pearl Street Chapter 61A First Right of Refusal

This is in reference to the ANR plan that was endorsed by
Plan is online here: [Lukasik2022ANR \(southhadley.org\)](https://southhadley.org/2022/02/22/188X-Lot-1-Pearl-Street-Chapter-61A-First-Right-of-Refusal/)

More information on Chapter 61 is available from DCR and UMASS Extension here:

<https://masswoods.org/sites/masswoods.net/files/Ch-61-Web.pdf#:~:text=The%20Chapter%2061%20programs%20give%20Massachusetts%20landowners%20like,rural%20character%2C%20wood%20products%2C%20food%2C%20and%20outdoor%20recreation.>

Page 17 from this document on "first refusal option" is excerpted below:

What is the first refusal option?

The purpose of the Chapter 61 programs is to help keep land undeveloped; therefore when a landowner chooses to convert enrolled land to another use, the municipality's first refusal option (sometimes referred to as the right of first refusal) is triggered. If any land under Ch. 61, 61A, or 61B is intended to be converted to a nonchapter use (either sold or retained in the same ownership) while enrolled or within one fiscal year of being removed from the program, then the municipality has the option to match a bona fide offer to purchase the property at the price contained in the offer. If the owner is not selling the property but is converting its use to a nonchapter use, the municipality has an option to purchase the property at full market value as determined by an independent appraiser.

The option must be exercised by the municipality within 120 days of (1) receiving a notice from the owner that complies with the law (in the case of a sale) or (2) the agreement of the consideration (the market value) in the case of a conversion by the owner. After exercising the first refusal option, the land must then be acquired by the municipality within 90 days, unless an extension is agreed upon by the landowner. The municipality may exercise its first refusal option to buy the land or it may transfer the first refusal option to an eligible conservation organization (e.g., state conservation agency, land trust) who then must also acquire the land within 90 days.

For more information on the first refusal option process, including what must be included in the notice to sell or convert, visit www.masswoods.net.

The first refusal option is triggered

- when the landowner intends to sell the land for a residential, commercial, or industrial use;
- when the landowner maintains ownership of their land and changes the land use to residential, commercial, or industrial use; or
- if the landowner withdraws from the program and changes the land use within 12 months or within one fiscal year of withdrawal.

The first refusal option is NOT triggered if

- the landowner chooses to switch to a different current-use program;
- the change of use is for the construction of a residence for an immediate family member;
- the landowner chooses to withdraw from a program, but keeps the land in agricultural, forestry, or recreational use for a period of one year from the time it was last taxed under the Chapter 61 program; or
- the landowner sells the property to a new owner who agrees to maintain the land use, as verified through an affidavit.

“ The purpose of the Chapter 61 programs is to help keep land undeveloped. ”

Action Needed: The Board must evaluate whether or not they would recommend to the Selectboard that the Town should accept the first right-of-refusal to acquire this parcel at or above the amount as agreed upon in the signed Purchase and Sale Agreement which is \$130,000.

Recommended Motion: Move to recommend that the Town declines their first right of refusal to acquire the parcel.

AGENDA ITEM #7 Skinner Woods, Amherst Road Flexible Development – Request for Partial Release of Performance Guarantee

On December 16, 2019, Skinner Woods on Amherst Road was issued a Special Permit and Stormwater Management Permit for the development of the site for a new 10 dwelling unit Flexible Residential Development of the site of a former sand/gravel pit. All dwellings are to be single-family detached structures. Other work associated with the development include associated earthwork, roadway/driveway, utility connections, site lighting, landscaping, septic systems, and a stormwater management system.

In reviewing the Skinner Woods Stormwater Performance Guarantee Section #9(c), of the Special Permit and Stormwater Management Permit Decision, it states that the performance guarantee shall not be released until Certificates of Occupancy have been issued for 75% of the dwellings, so no less than 8 of the 10 dwellings. The Building Commissioner reports that no COs have been issued and that two houses are in the early stages of construction. Thus, based on these terms, I do NOT recommend the Planning Board release amount of the performance guarantee at this time.

Action Needed: Review request and vote as to whether to issue a partial release of the performance guarantee.

Recommended Motion: Move to deny the request for a partial release of the performance guarantee until terms of the Performance Guarantee Agreement are met.

AGENDA ITEM #8 Discussion on Developing a Short Term Rentals Bylaw

A separate report dated 8/26/22 is attached for the Board's review.

AGENDA ITEM #9 Planning & Conservation Department Report on Planning Projects and Development Updates

Housing Production Plan Update

The first meeting of the Advisory Committee is scheduled for 9/7 at 7pm. Two focus groups have also been scheduled: Developers and Housing Professionals – 9/2 at 2pm; and, Government Officials – 9/8 at 10am.

Joint Selectboard-MPIC Meeting – Tuesday, 9/6 @ 7pm

MPIC will present a brief update to the Selectboard on the status of Master Plan implementation. Planning Board members are welcome to attend.

Master Plan Annual Forum – Friday, 11/4 @ 8:30am – 1pm

I am working with MPIC on planning for the first annual Master Plan forum for all “responsible entities” identified in the Master Plan Implementation Plan. Save the date! More information to come...

Next Meetings

9/12
9/19
10/3
10/17
11/7
11/21
12/5
12/19

AGENDA ITEM #10 Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

No new business had been submitted to me as of today.

Short Term Rentals – Summary Research
Anne Capra, Director of Planning and Conservation
August 26, 2022

There are two ways by which a community can regulate Short Term Rentals (STR): a zoning bylaw, and/or a general bylaw. Below is a discussion about the type of regulation each bylaw could offer, as well as additional considerations for implementation of a comprehensive STR regulation program in South Hadley.

Zoning Bylaw versus General Bylaw

Zoning Bylaw

A Zoning Bylaw can identify whether STRs are:

- a. Allowed “by-right” in certain zoning districts.
- b. Allowed by Special Permit (SP) in certain zoning districts, if a SP is granted.
- c. Allowed by Site Plan Review (SPR) in certain zoning districts.
- d. Prohibited in certain zoning districts.

The Zoning Bylaw can identify specific criteria that must be met in order for the use to be allowed, whether by SPR or SP, for example:

- a. The dwelling subject to the STR must be a legal dwelling unit.
- b. The property subject to the STR must be owner-occupied.
- c. All parking for the STR must be on site, no on street parking permitted.*
- d. STR may only be for a period of 31 days or less.*
- e. Must comply with all other local bylaws and regulations governing STR and/or transient lodging.

*These criteria could also be identified in a General Bylaw as well.

See sample STR Zoning Bylaw Outline – Attachment B.

General Bylaw

A general would be a non-zoning bylaw that would provide for the administration and enforcement of the STR licensing/permitting. A General Bylaw could do the following:

- a. Establish the process for obtaining a STR License/Permit. [See coordination with Town departments below. This would refer to the Rental Registry Program under development between the BOH and Building Department.]
- b. Provide a cap on the number of STR licenses.
- c. Identify other conditions that must be met, such as parking, signage, trash removal, septic/sewer, etc. In general, these conditions should be either in the general bylaw solely, or if duplicated in the zoning bylaw (which is NOT recommended) are the same as what is in zoning.
- d. Identify terms for license compliance.
- e. Identify what types of units are ineligible.
- f. Establish inspection requirements
- g. Establish complaint process and violations.
- h. Establish process for suspension, modification and revocation of STR license.
- i. Establish fines and enforcement.
- j. Identify an entity that may adopt regulations for the implementation of the STR bylaw.

See Attachment A.

Coordination of Short Term Rental Oversight with Other Town Departments – Rental Registration Program.

Regulating STRs in South Hadley needs to be coordinated with other Town departments due to the authorities and responsibilities designated to each under local and state laws. Thus, on August 22, 2022 I met with Sharon Hart, Public Health Director and Dave Gardner, Building Commissioner to share feedback from the Planning Board’s discussion on this topic at their last meeting. Currently, the Building Commissioner/Inspection Services and the Health Director/Department of Public Health are developing a “Rental Registration Program”. The objective of this program would be to create an annual registry for all rental properties in South Hadley, both long term, and short term rentals. [Currently, Bed and Breakfast Facilities are the only type of STR allowed.]. The program requirements would reinforce the regulations outlines in the MA State Sanitary Code for the protection of health, safety and well-being of occupants and the general public. The program would also improve awareness and education for rental property owners, property managers, landlords and tenants about suitable living conditions.

If STRs are to be allowed and regulated within South Hadley, they would be required to seek annual registration under the Rental Registration Program. Such registration would be the form of the annual license/permit.

Potential Permit Path for Short Term Rentals

1. Applicant applies for Special Permit/SPR from Planning Board.
2. Special Permit issued with Conditions stating:
 - a. Obtain Annual STR License through Rental Registry Program (issued through Board of Health/Public Health Department)
 - b. Obtain Business License from Town Clerk
 - c. Obtain Lodging Permit from Board of Health
 - d. Obtain Building Permit from Building Commissioner/Inspectional Services Department (Permit will determine if Fire Code Regulations are met.)

Examples from Other Communities

In response to a post on MassPlanners listserve inquiring about how communities are regulating short term rentals, the following information was provided from other communities. For communities that do not want to allow STRs in all zoning districts by-right, they are adopting both a Zoning Bylaw, to regulate location by district, and a general bylaw to provide for administration and enforcement. Communities that are allowing STRs by-right in all districts, are only adopting a general bylaw that establishes permitting administration and enforcement. Northampton adopted only a zoning bylaw, which explicitly allows STR by-right in all districts, and requires annual Short Term Rental Registration, which is operated through one of the City departments.

The discussions thus far with the Planning Board suggest that it is preferred that certain zoning districts be identified where the use is allowed, an annual licensing program is adopted, and there are provisions under which the license can be revoked. The administration and enforcement of the licensing program would be through another Town department such as Public Health or Inspectional Services.

Table 1 Short Term Rental Bylaws in Other Municipalities

Town/City	General Bylaw	Zoning Bylaw	Other
Northampton (2019)	NO	Chapter 350 – Allowed in all zoning districts by-right through annual Short Term Rental Registration	Short Term Rental Registration – annual Accepted MGL Chapter 64G to adopt Community Impact Fee on STR
Great Barrington (June 2022)	YES (not yet approved by Attorney General)	NO	Requires annual registration; revokable after 3 violations; issue fines in accordance with MGL c40, s21D
Amesbury (Fall 2021)	YES – for licensing process, fines	YES – allowed by right in all districts	
Killington, VT (2020)	NO	YES	Cannot assess fees as zoning so considering adopting a general bylaw.

Town Counsel Guidance

Outstanding questions for Town Counsel guidance:

- a. Can the number of STR Special Permits be capped?
- b. Can the number of STR Licenses under the Rental Registration Program be capped?

Room Occupancy Tax Option

Under MGL 64G, Massachusetts has a state room occupancy excise tax rate of 5.7%. The property owner is responsible to pay DOR directly for that. The room occupancy excise tax applies to room rentals of 90 days or less in hotels, motels, bed and breakfast establishments, and lodging houses. Beginning July 1, 2019, the room occupancy excise also applies to short-term rentals of property for 31 days or less. Towns may also adopt a local option room occupancy tax. A local room occupancy tax would be something for the Selectboard to consider and put forth for adoption.

Room Occupancy Tax on Short Term Rentals

<https://www.mass.gov/info-details/room-occupancy-excise-tax>

DLS Short Term Rentals FAQs

<https://www.northamptonma.gov/DocumentCenter/View/12893/Room-Occupancy-Excise-FAQs-Short-term-Rentals>

Short-Term Rental GENERAL Bylaw

DRAFT

14.1 Purpose and Intent:

The purpose of this chapter is to provide for the administration and enforcement of the [TOWN] Short-Term Rental Bylaw which provides for registration of short-term rental units in order to protect the health, safety, and welfare of both the occupant(s) of those rental housing units and the general public and to maintain the quality of life in residential neighborhoods of the Town.

The intent of permitting short-term rentals is to:

1. Provide for the orderly operation of short-term rentals within the Town and prevent negative impacts on neighborhood character, housing availability, house prices, availability of long-term rental units and impacts on infrastructure services such as sewer, parking, access, fire codes, building code enforcement and snow removal;
2. Assist the Board of Health, the Building Department and the Fire Department in the enforcement of state and local health and safety laws and regulations related to short-term rental units and to provide a method for correcting violations when conditions require immediate attention in situations associated with Short-Term Rentals.

14.2 Definitions:

[Move definitions to Chapter 255 Definitions].

1. Building Inspector: The Building Inspector for the [TOWN] or their designee.
2. Dwelling: A building, a modular unit, or portion thereof designed exclusively for residential occupancy, including single family, two family, and multiple family dwellings, but not including hotels, motels, boarding houses, or structures solely for the use of transient or overnight occupants.
3. Inspectional Departments: Consisting of [TOWN] Building, Health and Fire Departments.
4. Occupancy: The use or possession of or the right to use or possess a short-term rental of not more than 30 consecutive days.
5. Occupant (Guest): Any individual residing overnight in a short-term rental.
6. Operator (Host): Any person or entity operating a short-term rental.

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7. Operator's Agent: A person who, on behalf of an operator of a short-term rental:
(i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.
8. Owner: Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.
9. Person: An individual, partnership, trust or association, with or without transferable shares, joint stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting as a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly, or through any agent, employee, stockholder, officer of other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the [TOWN] or any of its agencies.
10. Short-Term Rental: A residential, primary residential, or mixed-use dwelling unit or any bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 30 consecutive calendar days, excluding: (any areas of town or zoning districts to be excluded); hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, section 23 or; bed & breakfast establishments licensed under Chapter 255-39 of the Zoning Bylaws of the Town of South Hadley.

14.3 Short-Term Rental Registration:

Registration is Required. Short-Term Rentals shall only be allowed in one or two family or multifamily dwelling units (excluding accessory buildings).

1. No owner shall rent, or offer to rent, any Short-Term Rental prior to registering with the [TOWN] Building Department. No tenant or lessee of an Owner shall let or sub-let a Short-Term Rental.
2. Limits on total number of registrations within the Town shall be 24 active units or less, until December 31, 2023; thereafter not more than 36 Short-Term Rentals shall be allowed in Town at any one time.
3. Compliance. A dwelling used as a Short-Term Rental shall at all times be in compliance with the provisions of all state and local health and safety laws, bylaws and regulations, including, but not limited to: Section ___ Noise, Section ___ Home Occupations, the Fair Housing Act, G.L. c. 151B and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

4. Application Required. The Owner of the dwelling shall be required to file for a Lodging Permit with the South Hadley Board of Health, a Business License with the Town Clerk, and complete a [TOWN] Short-Term Rental registration application with the [TOWN] Building Department. The Applicant shall also provide proof each Short-Term Rental is registered with the Massachusetts Department of Revenue.
5. Abutter Notification. For an initial application to register a property as a Short-Term Rental, the Applicant is required to send notification informing abutters within 300 feet and provide proof to the Town of the notification using one of the following methods; hand deliver; certified mail, return receipt requested; certified mail. Proof of abutter notification shall be included with the application. *[If short term rental is permitted via Special Permit, this may not be required because abutter notification would have already occurred.]*
6. The [TOWN] Building Department shall, in accordance with the above sections, issue a certificate of registration which shall expire on the following December 31, provided that the certificate may be renewed each year.
7. Registration Renewal. Short-Term Rental registrations shall be renewed annually upon payment of the renewal fee.
8. Fees. The fee for a Short-Term Rental registration or a renewal of a registration shall be \$ ___. *(Fairhaven is \$200)*
9. Non-Transferability. Short-Term Rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

14.4 Publication of Registration Number:

The Town-issued registration number shall be included on any listing offering the Short-Term Rental for rent.

14.5 Contact Information of Owner, Operator and/or Operator's Agent:

1. An Owner of a Short-Term Rental shall provide the [TOWN] Building Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short-Term Rental Registration in the [TOWN] has been issued or for which a Short-Term Rental Registration application is pending.
2. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
3. The name and contact information of the Operator's Agent, if different from the

Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by [TOWN] Building Inspector to complaints regarding the condition or operation of the Short-Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short-Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short-Term Rental Registration and shall be posted conspicuously within the rental unit.

14.6 Good Neighbor Information:

The Town-issued registration number shall be included on any listing offering the Short-Term Rental for rent.

14.7 Posting of Notices:

The Town shall provide information to each registered Operator summarizing the regulations for Short-Term Rentals. For each Short-Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the application, requirements for trash removal, occupancy requirements, parking, and noise restrictions. The Operator shall:

1. Provide each occupant a copy of the provided information; and
2. Post the information, along with the Short-Term Rental Registration, in a conspicuous location within the Short-Term Rental; and
3. Post the Short-Term Rental registration number on a placard visible from the street in the dwelling's front yard or front door.

14.8 Specific Standards of Short-Term Rental Properties

1. Trash Removal. The Short-Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent.
2. Parking. On-site parking of one space per Short-Term Rental bedroom.
3. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.
4. Commercial meetings and uses are prohibited in Short-Term Rentals.
5. Each Short-Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor.

14.9 Occupancy Requirements:

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The maximum number of Occupants in a Short-Term Rental shall be two per each bedroom, plus an additional two total.

14.10 Keeping of Register:

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years.

14.11 Ineligible Units:

The following are not eligible to be rented or offered to rent as Short-Term Rentals:

1. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under the local, state, or federal law;
2. Family Apartments or Accessory Affordable Apartments;
3. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short-Term Rental.
4. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, unsafe orders, or cease and desist orders.
5. Properties designated as Problem Properties.

14.12 Failure to Pay Municipal Taxes, Fees, Assessments, and Charges:

The privilege of receiving or holding a Short-Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of M.G.L. Chapter 40, Section 57, for denial, suspension, amendment, or revocation of a Short-Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

14.13 Inspections:

Short-Term Rentals shall be subject to a mandatory initial inspection and thereafter inspections every two (2) years by the [TOWN] Building Inspector, Fire Department, Health Department or other duly authorized authority from the Town.

14.14 Complaint Process, Violations

1. Complaint. A complaint alleging that a Short-Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the [TOWN] Building Inspector. The complaint must contain the Short-Term Rental address, unit

ATTACHMENT A

number, date and nature of the alleged violation(s), and name and contact information of complainant.

2. Written notice of any violations of this chapter shall be treated as a complaint and may also be initiated by the Building Inspector. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
3. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short-Term Rental Registration application then on file with the [TOWN] Building Department. A written change of address notice signed by the Owner(s) and delivered to the [TOWN] Building Department may be filed at any time.
4. Review of Complaint. The Building Inspector shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Building Inspector shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Building Inspector or designee shall serve notice of the violation upon the Owner of the Short-Term Rental. The Building Inspector shall keep records of all complaints received and determinations made.
5. Offering an Ineligible Unit as a Short-Term Rental. Any person who offers a unit as a Short-Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Building Inspector or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short-Term Rental.
6. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short-Term Rental without a valid Short-Term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short-Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
7. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Building Inspector or a designee for a violation of any provision of this section may be fined in

accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

8. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the [TOWN] Building Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Building Inspector shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Administrator and shall occur no later than three (3) weeks after the date the [TOWN] Building Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Office has issued a decision.
9. Decision. Within seven (7) days after the conclusion of the hearing, the Building Inspector or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the [TOWN] Building Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
10. Violations of an unoccupied dwelling unit shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Building Inspector.
11. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

14.15 Registration Suspension, Modification and Revocation:

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the [TOWN] Building Inspector, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the [TOWN] Building Inspector, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

14.16 Judicial Appeals:

Any person aggrieved by a final decision of the Hearing Officer and the [TOWN] Building Inspector with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

14.17 Penalties:

If any Occupant, Operator or Owner violates any provision of this chapter, the Owner may be subject to a fine in accordance with the following: \$150 1st Offense, \$300 2nd Offense and each subsequent offense. Each day that a violation exists constitutes a separate offense.

14.18 Enforcement:

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. Chapter 40, Section 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

14.19 Regulations:

The [TOWN] Building Inspector may adopt regulations, policies and procedures for the implementation of this chapter.

14.20 Severability:

Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any of the chapter of the General Bylaws or Zoning Bylaws of [TOWN], this Chapter ____ shall control.

14.21 Annual Reporting:

The Town Administrator shall publish annually in the [TOWN] Annual Report on the statistical data relating to Short-Term Rentals.

14.22 Room Occupancy Excise and Community Fees

Short-Term Rentals subject to the provisions of this bylaw are subject to the Room Occupancy Excise under M.G.L. Chapter 64G and short-term rental community impact surcharge. (if such a fee is adopted by the Town)

Short Term Rental Zoning Bylaw Outline
August 26, 2022
Anne Capra, Director of Planning and Conservation

Draft Zoning Bylaw Outline

- A. Purpose
 - a. Compatibility with neighborhood.
 - b. Allow residents to engage in generation of revenue from their properties while avoiding excessive noise, traffic nuisance and other possible adverse effects of transient populations in residential areas.

- B. Special Permit required per Article IX of the Zoning Bylaw.
[Zoning Districts where use is allowed by Special Permit to be noted in Use Regulations Schedule]
The Planning Board, acting as the Special Permit Granting Authority, may approve a special permit allowing for a short term rental in such zoning districts where permitted under the Use Regulations Schedule.

- C. A short term rental is defined as a legally located dwelling unit in which overnight lodging to paying guests is provided for no more than thirty (31) consecutive days.

- D. Applicant must be the owner of the dwelling unit, legally established in the Town of South Hadley Zoning Bylaws Chapter 255.
 - a. Definition of a dwelling unit.
 - b. Compliance of all structures on the property with the Zoning Bylaw Dimensional Schedule.
 - c. The property for which the dwelling unit designated for the short term rental must be current on all local taxes and fees.
 - d. Deed restricted units for affordable housing are not eligible.

- E. The following additional conditions and restrictions shall apply to each parcel on which one or more short term rental Special Permits are approved under these provisions:
 - a. All applicable building and fire codes must be complied with.
 - b. Parking
 - c. Signage
 - d. Septic/Sewer
 - e. Trash collection
 - f. Exterior storage of materials, equipment, vehicles or other supplies used in conjunction with the short term rental business.
 - g. Business License from the Town Clerk must be obtained.
 - h. Lodging Permit from the Board of Health must be obtained.

ATTACHMENT B

- i. Annual Rental Registration must be obtained (Department through which this would be required TBD)
- j. Planning Board may waive any of these conditions as deemed appropriate to the specific conditions of the site.
- k. The Building Commissioner may adopt regulations for the administration of this bylaw and short term rental special permits.
- l. No more than ____ short term rentals are permissible on any one tax parcel.

References:

255-39 Bed and Breakfast Facilities <https://ecode360.com/30053385>

255-22 Home Occupations <https://ecode360.com/30053001>

255-34 Professional Business Uses <https://ecode360.com/30053205>

**SOUTH HADLEY PLANNING BOARD
LIST OF CORRESPONDENCES
AUGUST 29, 2022 REGULAR MEETING**

Letters & Memos

- Letter dated August 15, 2022 from Bucky Sparkle, Engineering Consultant for Skinnerwoods Flexible Development, requesting a partial release of the project's Stormwater Performance Guarantee.

Legal Notices

Amherst

- Notice received from the Amherst Planning Board for public hearings on September 7, 2022 to consider the following: 1) withdrawal of a special permit filed by Amherst Office Park for a project at 463 West Street; 2) extinguishment of a previously issued special permit issued filed by Amherst Office Park for a project at 463 West Street as the zoning of the location had changed and the use was now permitted through Site Plan Review; 3) and modification of a special permit to allow three roomers within an owner occupied dwelling at 51 Spaulding Ave.
- Notices from the Amherst Planning Board for filing the following decisions: 1) Site Plan Approval to rebuild retaining wall and other site improvement at Amherst Office Park located at 463 Amherst Road; 2) Site Plan Approval for a Town of Amherst Dog Park located at 95 Old Belchertown Road; 3) and Site Plan Approval for construction of a mixed-use building at 446-462 Main Street.

Chicopee

- Notice from the Chicopee Planning Board for a public hearing on September 1, 2022 for a zone change from Business A to Business B to create one contiguous zoning district for the entire property at 499 Montgomery Street.
- Notice from the Chicopee Zoning Board of Appeals for public hearings on September 14, 2022 to consider the following: 1) variance from frontage, area, depth and rear yard setback requirements to allow construction of a single family home on Granville Ave; 2) variance from frontage and area requirements to allow construction of a single-family home without sewer connection on Dobek Ave; 3) variance from parking stall dimension and pavement setback requirements to allow parking for five compact cars at 10 Southwick Street; 4) and variance from interior travel lane requirements to allow construction of an automatic tunnel car wash at 1339 Memorial Drive.

Granby

-

Hadley

-

Holyoke

-



Bucky Sparkle, PE
87 Grove Avenue, Leeds, MA 01053
617.271.4004 or zengineerbucky@gmail.com

15 August 2022

To: Anne Capra, Director, Planning & Conservation
Town Hall
116 Main Street
Room 204
South Hadley, MA 01075
413-538-5017, ext. 206
acapra@southhadleyma.gov

Project: Skinner Woods – Flexible Development
Amherst Road, South Hadley, MA

Client: Skinnerwoods, LLC
c/o Thomas Spring
2 Cedar Ridge Road
South Hadley, MA 01075
413.531.8601
thomasaspring@yahoo.com

Subject: Request for Partial Stormwater Performance Guarantee Release

Dear Anne and Board Members,

In conformance with Condition of Approval #9, Stormwater Management System – Performance Guarantee, of the 16 December 2019 Planning Board Decision for Skinner Woods, and South Hadley Bylaws 200-24 and 255-130.C, I am providing partial certification of the satisfactory completion of the stormwater management system at Skinner Woods.

The surveyor has provided an As-Built survey of the roadway and stormwater infrastructure. I have visited the site and inspected system components. From this information, I have also “rebuilt” the HydroCAD model to ensure the system, as constructed, meets the design criteria.

I am pleased to say that the system is in good order, with one temporary exception. The StormBasin inlet filter has not yet been fabricated and installed to the catch basin. This is an important system feature. The component is ordered and is waiting for the manufacturer to build the unit, which will require more than a month to complete. Otherwise, the stormwater management system is working.

The cost to furnish and install the inlet filter is estimated to be \$3,000. I recommend that the

Town of South Hadley release the majority of the stormwater management system performance guarantee, holding \$9,000 to guarantee the proper installation of the remaining component. This is three times the value of the remaining work.

I hereby certify that, based on the visual observations and plan information noted, to the best of my knowledge and belief, the subject stormwater management system has been built within acceptable construction tolerances and in substantial conformance with the Planning Board Decision. A final certification from my office will be issued when the StormBasin is installed so that the retained performance guarantee can be released at that time.

- Plan References:
- 1) Plan entitled "Skinner Woods Flexible Development – Preliminary Plan, South Hadley", prepared for Tom Spring, prepared by The Zengineer, dated 7/30/20.
 - 2) Plan entitled "Skinner Woods Flexible Development – More Than One Building For Dwelling Purposes Per Lot, South Hadley", prepared for Skinnerwoods LLC, prepared by The Zengineer, dated 3/11/21.
 - 3) Plan entitled "As-Built" Survey / Skinner Woods – Plan of Land in the Town of South Hadley, Massachusetts" prepared for Skinnerwoods LLC, prepared by Durkee, White, Towne & Chapdelaine, dated 6/23/22.

Inspection date: 4 August 2022

Installer: Kent Brothers Excavating, LLC, Southampton, MA, 413-203-2800

Please let me know if you have any questions.

Brightly,

Bucky Sparkle

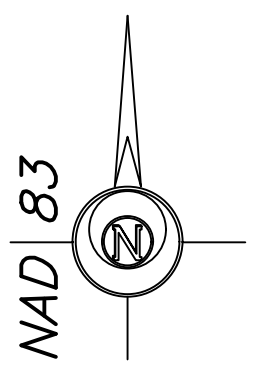
Bucky Sparkle, PE



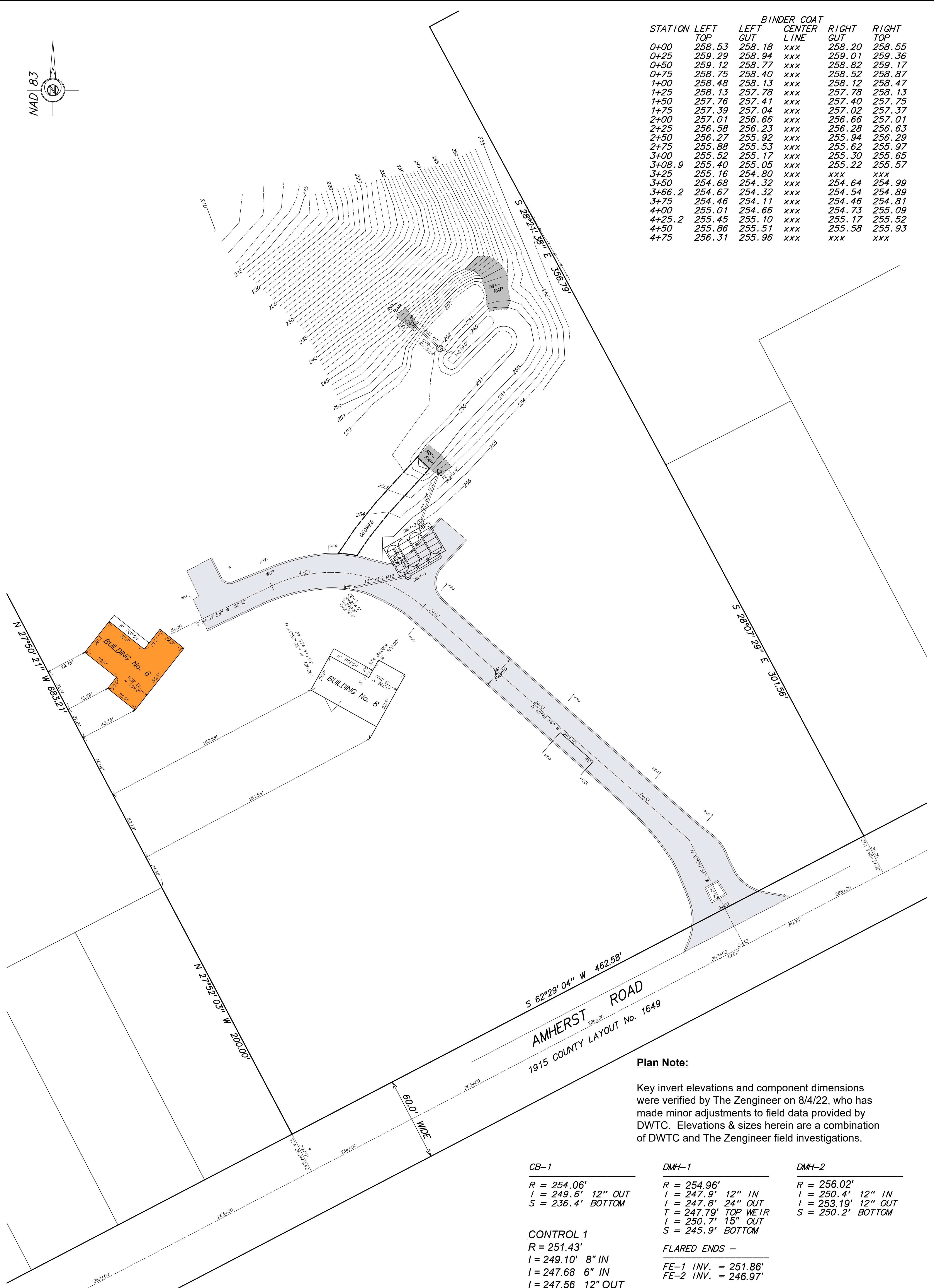
Attachment:

As-Built Survey Plan "As-Built Survey / Skinner Woods" prepared by Durkee, White, Towne & Chapdelaine, 356 Front Street, Chicopee, MA 01013, (413) 592-5164, dated 6/23/22

CC: Thomas Spring, Owner
Kent Brothers Excavating, Installer



STATION	BINDER COAT				
	LEFT TOP	LEFT GUT	CENTER LINE	RIGHT GUT	RIGHT TOP
0+00	258.53	258.18	xxx	258.20	258.55
0+25	259.29	258.94	xxx	259.01	259.36
0+50	259.12	258.77	xxx	258.82	259.17
0+75	258.75	258.40	xxx	258.52	258.87
1+00	258.48	258.13	xxx	258.12	258.47
1+25	258.13	257.78	xxx	257.78	258.13
1+50	257.76	257.41	xxx	257.40	257.75
1+75	257.39	257.04	xxx	257.02	257.37
2+00	257.01	256.66	xxx	256.66	257.01
2+25	256.58	256.23	xxx	256.28	256.63
2+50	256.27	255.92	xxx	255.94	256.29
2+75	255.88	255.53	xxx	255.62	255.97
3+00	255.52	255.17	xxx	255.30	255.65
3+08.9	255.40	255.05	xxx	255.22	255.57
3+25	255.16	254.80	xxx	xxx	xxx
3+50	254.68	254.32	xxx	254.64	254.99
3+66.2	254.67	254.32	xxx	254.54	254.89
3+75	254.46	254.11	xxx	254.46	254.81
4+00	255.01	254.66	xxx	254.73	255.09
4+25.2	255.45	255.10	xxx	255.17	255.52
4+50	255.86	255.51	xxx	255.58	255.93
4+75	256.31	255.96	xxx	xxx	xxx



Plan Note:

Key invert elevations and component dimensions were verified by The Zengineer on 8/4/22, who has made minor adjustments to field data provided by DWTC. Elevations & sizes herein are a combination of DWTC and The Zengineer field investigations.

<p>CB-1</p> <p>R = 254.06' I = 249.6' 12" OUT S = 236.4' BOTTOM</p> <p>CONTROL 1</p> <p>R = 251.43' I = 249.10' 8" IN I = 247.68 6" IN I = 247.56 12" OUT</p>	<p>DMH-1</p> <p>R = 254.96' I = 247.9' 12" IN I = 247.8' 24" OUT T = 247.79' TOP WEIR I = 250.7' 15" OUT S = 245.9' BOTTOM</p> <p>FLARED ENDS -</p> <p>FE-1 INV. = 251.86' FE-2 INV. = 246.97'</p>	<p>DMH-2</p> <p>R = 256.02' I = 250.4' 12" IN I = 253.19' 12" OUT S = 250.2' BOTTOM</p>
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DATE	NOTES / REVISIONS
	CONTACT DIG-SAFE PRIOR TO ANY EXCAVATIONS 1-888-344-7233
	SUBJECT TO EASEMENTS, RESTRICTIONS AND R.O.W.'S OF RECORD, IF ANY AND APPLICABLE.

SCALE 1" = 30'

"AS-BUILT" SURVEY / SKINNER WOODS

PLAN OF LAND IN THE TOWN OF SOUTH HADLEY, MASSACHUSETTS
HAMPSHIRE COUNTY - PREPARED FOR SKINNER WOODS LLC

INDEXED

DURKEE, WHITE, TOWNE AND CHAPDELAINE
CIVIL ENGINEERS AND LAND SURVEYORS
356 FRONT STREET
CHICOPEE, MASSACHUSETTS - 01013
PHONE (413) 592-5164

DRAWN BY EJC	DATE: 06/23/2022	DRAWING No. 113-6641
CHECKED BY	SCALE 1" = 30'	S.A.B-1.1
APPROVED BY EJC		

SHEET 1 OF 1
FILE 2017-180.S90