



Town of Orleans

141 Portanimicut Road Task Force

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3/25/21

Conservation Commission
Town of Orleans
19 School Road
Orleans, MA 02653

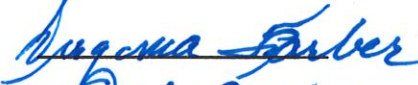
Dear Commissioners,


Attached is the final report of the 141 Portanimicut Road Task Force (141TF). Recommendations are presented in three parts. First, actions to improve selected physical conditions are suggested. Second, recommendations for a sample management plan are advanced. Third, a summary of other issues discussed and not recommended for 141 Portanimicut Road is included.


The 141TF held 15 meetings between February 2020 and March 2021. Opportunities for public comment were provided at every meeting. With the presentation of this final report our work is completed and your Charge to the Task Force is accomplished.

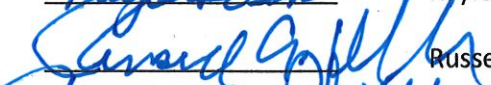
On behalf of the 141TF, we thank you for the opportunity to help the Conservation Commission in its preparation of a Management Plan for this new conservation property.

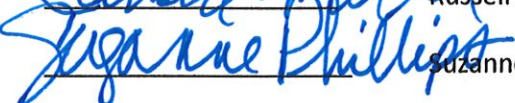
Sincerely,


Virginia Farber, Chair


Jack Kadzik, Vice Chair


Kayleen Rosato, Member


Russell Holden, Member


Suzanne Phillips, Member/Representative from Shellfish and Waterways



141 Portanimicut Road Task Force



Smith Beach: photo Kristyna Smith, 2020

Final report to the Conservation Commission

3/25/21

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PART 1: Action Recommendations for the Conservation, Recreation, and Open Space property at 141 Portanimicut Road

Introduction

In Part 1 of the report, the Task Force centers on recommendations for actions to improve selected physical conditions at 141 Portanimicut Road. Implementing the recommended actions will lead to a new plan for this town owned property that is current, manageable, and enforceable. The Conservation Commission is undertaking these actions in support of its charge to manage, maintain, and promote Conservation Lands purchased by the Town of Orleans.

Recommendations for improving physical conditions at 141 Portanimicut Road are derived from site observations, meetings and discussions, citizens' comments, input from other boards and committees, wishes of the seller/donor, and decisions of the Task Force. The intention of this report is not to provide a comprehensive list of every possible improvement that could be made, instead, it is intended to highlight a number of priority actions for your consideration on this property.

Actions for Physical Improvements

Selected physical improvements for 141 Portanimicut Road are detailed in the following categories. A number of the recommendations were developed and prioritized by the Task Force through a process of identifying uses that were allowed on the property under MGL 40 8C and ranking them. This system allowed for each individual member to rank approximately 20 allowed uses on a scale from 1-5. The result allowed members to see and thoroughly discuss the priority and nonpriority uses that would shape their recommendations for physical improvements.

Building

Remove the building and foundation in its entirety. This will allow for the environmental restoration of the sensitive Resource Areas of the site, allow greater access, and help facilitate parking and circulation improvements on the landward side of the site.

The building was the subject of extensive discussion at most of the 141TF meetings. The ranking exercise was productive in that it put emphasis on uses for the property that were *not* building dependent, further confirming the Task Force recommendation. In addition, keeping the building for passive recreational uses would result in upkeep of a structure that would become costly over time. Ultimately two votes of recommendations were made regarding the building on the property. First, a vote (4-1-0) to recommend the building and foundation be removed from the site by either demolition or movement off site. Second, a vote (5-0-0) to notify the

Affordable Housing Trust of our recommendations, thus making them aware of the building availability for relocation. The votes took place at the 141TF meeting on 11/5/20. Other outreach was also done regarding the building assuming it may be available for relocation. Habitat for Humanity was contacted via email by the Conservation Department and Beth Wade replied on 1/6/20 expressing no interest in the building move concept.

Site Work

Restore the site to pre-existing natural grades and prepare site for recreational amenities and parking/circulation improvements. This will involve grading, revegetating, and installation of picnic table(s), kayak racks, bike racks and other recreational amenities. Invasive species management was also discussed for the minor invasions of phragmites along the marsh edge.

The 141TF acknowledged that the Conservation Commission has no existing budget for this property. One recommendation for consideration is to develop a Request For Proposals (RFP) for a concept that offers up the building for sale in exchange of basic site improvements or a fee. The concept behind such an RFP may either generate some cash to be used for site work on the property or site work could be done in exchange for the building removal from the site. This is a concept that has been used by the Conservation Commission and Town in the past (Smith house at Meadow on the Cove/Putnam Farm) and could be explored again with guidance from the Town Administrator. The specifics of an RFP were not further discussed by the 141TF.

Entry

Determine and mark boundaries, including entry and parking. The Task Force noted some encroachment by an abutter early on in our work and that has been followed up on by the Commission. This portion of the Coastal Bank and Beach should continue to be monitored so that further encroachment does not occur. The path from the landing through the low marsh should be closed and access to Smith Beach should be accommodated from the upland side of the marsh. The 141TF recommends closing the path through the marsh by using a split rail fence or other delineator. This could be done at the same time a new path is installed welcoming the foot traffic to the beach.

Parking

Parking was quickly identified as a priority for the Task Force through much discussion and ranking. After the 141TF decision on a recommendation for the dwelling (removal), six concepts for parking and circulation improvements were reviewed and discussed (see Appendix G). It should be noted that removal of the building, along with its parking spaces and driveway, would make way for all the new parking spaces to be available for public and open space users. All the parking concept options were shared with the Traffic Advisory Committee (TAC) at the meeting on 1/25/21. One of these even included the dwelling footprint as remaining.

After discussion at the TAC meeting about the need for as much parking as possible in the area, the TAC voted to support Option 1 with the motion that parking should be made deep enough for either truck and trailer use or stacking of single use vehicles. Other discussion involved expanding Option 1 to include 8 total parking spaces, avoiding impacts of grade retention below the flood elevation, and angling large stalls to provide for ease of backing/circulation. The meeting also noted that user groups may vary on the parcel based on season and even time of day and therefore, allowing flexible parking on the conservation parcel would be helpful to the recreational activities taking place both on the parcel and at the adjacent landing. Any final design of parking should be of a pervious surface type and shall continue to involve the Harbormaster Department and the TAC as they have the local knowledge base of the specific parking and circulation needs of the adjacent landing.

The 141TF also recommends the best option for your consideration is Option 1. Given the prior recommendations on the building removal, Option 1 allows for 2 unique parking stalls to accommodate user groups. The concept will provide increased safety by providing off street parking accommodations and does not reduce the overall parking opportunities (taking place on the street) with the required curb cuts. The concept, in concert with the building removal, will also provide a net reduction in overall impervious surfaces in the Pleasant Bay ACEC and Land Subject to Coastal Storm Flowage. Final design and development of these types of improvements will need a filing under the Wetlands Protection Act and greater design detail by an engineer.

Access Control

Item number 3 in the charge asked us to look at limitations on use of this parcel such as access control (sticker or resident only). It's important to acknowledge up front that no Town of Orleans Conservation property is currently restricted to "residents only" by a sticker requirement. We understand signage restricted the Pilgrim Lake Conservation area at one time (Orleans Beach Sticker Required), but that has been eliminated.

The 141TF acknowledges that under MGL 40 8C, the Conservation Commission has the ability to set rules on property under its care and custody, including this property. The 141TF also must point out that the funding for the parcel came from the Community Preservation Committee and multiple accounts within them (see Part 2 Overview of Land). The Conservation Commission should confirm with Town Counsel that those funds do not limit the Commissions ability to restrict parking on the parcel.

Rules requiring parking stickers, or resident/taxpayer only status were loosely discussed with the TAC and the January 25th meeting. The 141TF is aware that the TAC is actively working with the Harbormaster and Chief of Police on the development of parking requirements and parking

enforcement at some of the busier Town Landings. As this property is adjacent to a busy Town Landing, we are aware that rules may be set for this adjacent property soon.

The 141TF recommends that access control to this parcel should be consistent with whatever restrictions are proposed for the adjacent Town Landing. Although none are available to review, support, and recommend at the writing of this report, we are recommending the Conservation Commission track the rule setting on the adjacent landing parking. If restrictions and enforcement are proposed for Paw Wah Landing, the Smith Beach parcel should also be restricted. Being consistent with our neighbor will allow for seamless enforcement and avoid confusion for users.

Recreational Amenities

After much discussion and multiple meetings on allowed and prohibited uses, certain uses became priority recommendations for the property. The previously described ranking system identified passive recreational activities that were important to the Task Force. This helped the Task Force identify amenities that would support and encourage these high priority uses. Below is a list of recommended amenities (in no priority order) that are needed but currently non-existing on the property.

- Install kayak racks and bike racks on site
- Install a picnic table or two on site
- Install dinghy storage/tie up system
- Refresh the trail access for pedestrian access to Smith Beach
- Install kiosk
 - Add educational information about history;
 - Add educational information about aquifer, estuary, watershed;
 - Add list of encouraged activities and prohibited activities.
 - Trails
- Add wood chips to trails as needed;
- Prune scenic view areas as needed;
- Add a welcome sign at entrance;
- Improve parking

Closing

Consistent with the charge given to the Task Force, Part 1 of the report advances recommendations that will prepare and improve the property for public use. Through the additions of amenities suggested the property can contribute to a wider range of passive recreational uses. All recommended actions suggested herein should help the property contribute to a higher level of benefit from the open space for residents of Orleans and all visitors.

PART 2: Recommendations for a Sample Management Plan

Introduction

In this part of the report, the Task Force presents to the Orleans Conservation Commission a sample of a new management plan for open space and recreation at 141 Portanimicut Road. This framework, like your existing management plans, makes it possible to consider recommendations in an efficient and effective manner. The purpose is to advance a sample narrative of detail that can be used by members of the Orleans Conservation Commission to create a final management plan.

Overview of Land

141 Portanimicut Road is a 2.5-acre parcel located in South Orleans. The upland portion of the property is comprised of .37 acres. The property abuts Little Pleasant Bay, Eli's Creek, and Paw Wah Town Landing. The property consists of a small area of upland that is currently occupied by a 1979 single family dwelling. The property is within and surrounded by sensitive environmental Resource Areas that make its acquisition and preservation an asset to the Orleans Open Space inventory. It is entirely within the Pleasant Bay Area of Critical Environmental Concern and is largely impacted by the Flood Zone (Zone AE) and Velocity Zone (Zone V). There is a small area of Coastal Beach on the parcel along with healthy Salt Marsh, a small Coastal Bank, and roughly 590' of frontage on Little Pleasant Bay. The property hosts both low and high marsh communities, and seaward of the Coastal Beach is mapped eel grass habitat. These types of environmental assets, all regulated and protected by the Wetlands Protection Act and Orleans Wetlands Bylaw, allow for opportunities for coastal resiliency to take place. Opportunities for marsh migration, flood damage prevention, and accommodations for sea level rise all exist on site.

The Town of Orleans acquired the parcel at 141 Portanimicut Rd in 2016 for \$500,000 for open space and recreation purposes. The selling price of \$800,000 was matched with a \$300,000 gift from the Gilmore Family (see appendix B Gilmore letter). The gift of \$300,000 in value was made by the Gilmore family "for placing small boats on the beach, for swimming and recreation with families and for simply walking on the beach with your toes in the sea...". The Gilmore Family felt reasonably certain that these activities may not be available to the public if the property were sold to a private buyer.

In accordance with Book 29798, Page 184 of the Deed, the May 9, 2016 Special Town Meeting Article 3 for the Proposed Land Acquisition states: Voted, voice vote carried by a majority, motion carries that the Town accept and adopt Article #3 and that the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) be transferred from the Community Preservation

Fund for this purpose as follows: Two hundred forty six thousand six hundred ninety eight and 00/100 dollars (\$246,698.00) from the Sparrow Open Space reserve; sixteen thousand one hundred nine and 00/100 dollars (\$16,109.00) from the Toop Fund; and two hundred thirty seven thousand one hundred ninety three and 00/100 dollars (\$237,193.00) from the CPA unreserved fund balance; and that the Board of Selectmen and the Conservation Commission be authorized to take all actions necessary to carry out the acquisition of the property described in the Article.

On May 7th, 2018, an article proposing to name this new Conservation property consistent with the family's request was presented at Annual and Special Town Meetings. Article 51 proposed to designate the end of Portanimicut Road as Paw Wah Landing and designate the property at 141 Portanimicut Road as Smith Beach. The motion to accept and adopt Article #51 as printed in the warrant was voice voted and carried by the necessary 2/3 majority. The property at 141 Portanimicut Road was renamed Smith Beach.

History

In 1931, 141 Portanimicut Road, along with some abutting lots, was owned by Stanley W. & Albert P. Smith. At that time, the only structure on the property was a small boathouse.

Over several decades the land owned by the Smiths was divided and transferred until finally, in 1977, Ann J. Gilmore was granted all the grantors' right, title, and interest in and to the property.

In 1979, an Order of Conditions and a building permit were issued to Ann J. and Gerald F. Gilmore for the construction of a single-family dwelling to replace the existing boathouse. The property was owned by the Gilmore family and their trustees until they sold it to the Town of Orleans in 2016.

This area also has an extensive Native American History, most notably the Legend of Pompmo. This history was described by Todd Kelley, native naturalist, and printed by the Orleans Conservation Trust. Paw Wah is the Native American's term for "medicine man", a term that became associated with Pompmo because of his aptitude for healing. Pompmo lived on land that is modern day Portanimicut Road, as his father decided to settle there in 1623. Pompmo fell in love and presented an offering to Chief Quanset in exchange for his daughter's hand in marriage, but when this offering was denied by the Chief, Pompmo plotted to kidnap his daughter. His attempt to steal the Chief's daughter failed, nearly resulting in his death, but he was able to escape Chief Quanset and his tribe. Pompmo decided to retreat to the end of present-day Portanimicut Road on what is today's Paw Wah Pond. It was winter and Pompmo went ice fishing, and as the legend goes, he did not satisfy the Water God, so he and his dog fell

through the ice and died. This legend has since influenced local fisherman to visit Paw Wah Pond and make a tobacco offering to the medicine man ensuring successful fishing.

Mission of Management Plan

As detailed in the Town's 2006 Conservation, Recreation, and Open Space Plan (CROS), properties like 141 Portanimicut Road are purchased to ensure open space and to advance the Town's commitment to provide ample opportunities for passive recreation.

Accordingly, Orleans voters have made a considerable commitment so that children and adults of all families may access the benefits of open spaces town wide including this parcel. The open space and recreation opportunities at 141 Portanimicut Road are maintained by the Town of Orleans so that every interested individual and family has equal rights to this land. This new 2021 management plan, then, is intended to advance and promote the varied benefits this land provides so that all people are encouraged to appreciate, use, and conserve 141 Portanimicut Road. This resource of Orleans adds meaningfully to the quality of life for our year-round residents and visitors alike.

Objectives of Management Plan

The objectives for managing this property are:

- To make open space and recreation accessible, welcoming, and educational for all visitors consistent with its salt waterfront and passive recreational potential;
- To communicate guidelines for use that are positive, educational, and are respectful of others;
- To preserve native plants, manage invasive plants, and foster native habitats and biological diversity;
- To assure management of the property remains consistent with the Town of Orleans' Plan for Conservation, Recreation, and Open Space (CROS), and with existing Town Bylaws.

It is the responsibility of the Orleans Conservation Commission to manage 141 Portanimicut Road. The Commission, and its agent, are the key leaders for articulating what needs to be done to reach these objectives and hence accomplish the larger mission. In order for the Conservation Commission and its agent to accomplish the objectives, interdepartmental communication and cooperation are essential. This collaborative approach will better ensure that 141 Portanimicut Road is enjoyed by all.

Land Uses

Conservation lands across Orleans are purchased for a variety of active and passive recreational uses. Owing to the waterfront nature of 141 Portanimitic Road, this particular resource also supports a number of water-dependent activities.

The area's recreational opportunities include:

- Bird watching and animal observation
- Picnicking
- Scenic viewing
- Shore fishing
- Small boat landing
- Shell fishing
- Shellfish propagation, with permission from Orleans Conservation Commission
- Storing or launching of boats (in accordance with the Harbormaster Rules and Regulations and in coordination with adjacent Town Landing Rules)

Activities restricted by law and activities disallowed under management of the Conservation Commission are listed below but not limited to:

- Alcoholic beverage consumption
- Discharge of Firearms (Orleans Bylaw 158-30)
- Harassing wildlife or visitors
- Hunting
- Horseback riding
- Littering (Orleans Bylaw 125)
- Motorized recreational vehicles (ATVs, dirt bikes, motorcycles, snowmobiles)
- Open fires and cooking
- Smoking
- Tenting or camping (Orleans Bylaw 124-5)
- Unrestrained Dogs (Orleans Bylaw 85)
- Use of fireworks
- Use of soaps, detergents, or shampoo

Additional regulations regarding hours for use of the property and use of the property by groups of visitors are:

- 141 Portanimicut Road Conservation Area is open for enjoyment by the general public daily from sunrise to sunset.
- Groups of 10 or more, celebrating special occasions such as weddings, birthdays, or family gatherings are required to coordinate use with the Conservation Office. School groups in buses are encouraged.

To ensure enjoyment for all visitors, certain activities are limited by law while other activities are prohibited by the Conservation Commission as the managing agent. Violations of Federal, State or Town of Orleans Bylaws are enforced by Orleans Police. Violations of Conservation Commission created regulations will be enforced. It is assumed all visitors will practice personal responsibility and exercise common sense.

Responsibility for Management and Maintenance

The Orleans Conservation Commission is responsible for overall management of the property including promotion of use, adherence to rules, implementation of actions to improve physical conditions, periodic evaluation of the extent to which objectives are being accomplished, and procurement of financial resources to ensure successful conservation.

The Orleans Department of Public Works provides necessary maintenance to road access for safe travel. They also provide routine operational maintenance including mowing, pruning, clearing, and cleanup.

The Orleans Police Department enforces Town Bylaws by responding to complaints and by patrolling the area.

Closing

The 141TF recommends that the 2021 management plan for the property should be reviewed after 5 years and at 10-year intervals thereafter. The Conservation Commissioners, in concert with the Conservation Agent, are responsible for the implementation of the management plan. Across the management plan there is a deeply held value that all people deserve equal access to this conservation land.

Part 3: Summary of other topics discussed and not recommended for 141 Portanimicut Road

Introduction

In Part 3 of the report, the Task Force presents the other topics that were discussed in relation to the future use of 141 Portanimicut Road. Identifying and sharing these topics makes it more likely for the Commission to understand the decision-making process and the rationale of the task force. Although this final report does not recommend advancing any of these topics at present, we wanted to let you know they were discussed.

Housing

Affordable Housing

Affordable Housing is defined by Massachusetts and the Community Preservation Act as Housing targeted to and affordable by households that meet specific income eligibility levels, typically households earning below 80% of the town's median income. Housing is generally considered affordable if the household pays less than 30 percent of its monthly income to secure the housing. 141 Portanimicut Road was purchased using Community Preservation Funds for Open Space and Recreation and therefore was not considered for any other defined use.

Housing Opportunity

Conservation Commissions often can and do acquire lands with existing buildings on them. In Orleans we have done this before. The fate of the building is ultimately up to the Conservation Commission. The Environmental Handbook for Massachusetts Conservation Commissioners provides guidance on the use of land with existing buildings (see Ch 8.7.6). Buildings can be used to provide a housing opportunity if the tenants provide services that *support the conservation use of the property*. We understand the Commission utilizes this model at the Sea Call Conservation property where a housing opportunity was created by housing a Natural Resources employee who provides care and maintenance for the property as well as generating rental receipts. On this property the historical significance of the building was a strong determinant in keeping the structure and providing a housing opportunity on a large property that requires a lot of care. Also, the care and maintenance save the Town on the expense side and the receipts provide revenue for the required building repairs and upkeep. This model has worked for that property successfully for several years.

However, in discussing creation of a housing opportunity on this parcel, using the model that works under MGL 408C, the 141TF thought that this model may not be appropriate for the following reasons:

- Maintenance requirements for the parcel are minimal, thus negating the necessity of a caretaker tenant or family. It would be difficult to provide rent reduction from maintenance work given the low needs of the small property.
- The presence of a caretaker or family would affect the openness of this small parcel, both the feeling and the physical space, thus affecting the way in which the property could be fully enjoyed by the public.
- Keeping the existing dwelling for housing of a caretaker or family would require creating exclusive use areas and designated parking areas for the caretaker or family. This would reduce the space available for public use and limit parking that is already minimal.

The 141TF also wishes to recognize that the Conservation Commission has purchased other properties with buildings and structures and has ultimately decided to undevelop those parcels in order to restore them back to open and natural settings that foster uninhibited public access. Kent's Point, the Christian property, Meadow on the Cove (former Smith property), and Putnam Farm are all examples of such properties where un-development and restoration of natural conditions has been the Conservation Commission's choice.

Upweller/Shellfish Propagation

The Orleans Shellfish and Waterways Improvement Advisory Committee (Shellfish/Waterways) has active representation on this Task Force. The Shellfish/Waterways has continually expressed interest in the property for a number of possible uses.

One suggestion proposed the property be used to promote shellfishing. The concept was volunteers could give "hands-on" lessons in how to shellfish. The building could store a collection of used shellfish implements (for loan or rent), so that people could "try out" shellfishing before investing in their own equipment. Typical instruction would include how to cull, how to measure and use a gauge, and gather safe handling information for raw shellfish which is very important in these times of the heating ocean. Similar programs could be established for fin fishing.

Also, there has been quite a bit of interest in having an upweller (shellfish nursery) in Orleans and the site could provide for a number of possibilities. Concepts discussed included a FLUPSY (floating upweller system on the dock), a covered upweller on the ground, or an upweller in the building. The 141TF discussed and acknowledged that upwelling shellfish on site is not dependent on the existing building. An upwelling program could be used to support oyster propagation for the recreational-only oyster put and take activities in town. Supporting

recreational only shellfishing would be an allowed use of the property. The Town's previous upweller was operated by 60 volunteers under the direction of the Orleans Pond Coalition, with no money spent by the town. The 141TF took no specific vote on this and did not fully discuss any impacts a facility such as this may have such as parking or noise etc.

Boat Safety and Handling Instruction

It was discussed that the building and landing area could be used for small, "hands on" instruction on such topics as required safety equipment for a boat, how to store and put on a personal flotation device (PFD), how to work a hand-held radio, how to use a compass, read a tide chart, etc.

We are aware that there are groups, including the Cape Cod Power and Sail Squadron and the Coast Guard Auxiliary that offers classes on boating safety. However, these courses cost money, and usually last several weeks.

The concept was for small groups with individual instruction, and oriented not only to boat owners, but also to people who come and rent a boat. These instructions could be valuable in helping to reduce the rescues the Harbormaster's Office have during a season.

It was acknowledged, a lot of people don't know how to anchor a boat, and they could practice right off the dock. Also, a lot of people don't know how to row a boat; again, there could be individual instruction, especially on windy days. Other safety issues: how to check a gas can (on an outboard), how to vent the top, why not to let the gas go low in the tank.

There are more and more people going kayaking, and many of them need help with managing the kayak, but also have little knowledge about the waterways "rules of the road", how to read the wind (important to get back to the point of departure), etc. Again, there are classes, mostly offered by commercial enterprises, but they are expensive, and too often the safety instruction is minimal.

The 141TF took no specific vote on recommendations regarding the above. There are a number of considerations that would need to be taken into account if this concept were explored. The site, being physically small, does not lend itself to events that would require large parking capacities, facility amendments, and this potential use did not rank as a priority use for the parcel, but it certainly would be allowed and was found only to be partially dependent on a building on site.

Harbormaster Offices

The Harbormaster's Office temporarily occupied the building on site, as their office, while the Town was building a new DPW and Natural Resources facility. During that time support grew for maintaining this use. The letter from Shellfish/Waterways dated 12/18/2017 highlights this

desire for the Harbormaster to have an office on the water. On 10/23/2018, Town Counsel Mike Ford wrote a letter to the Town Administrator that provided guidance on using the building for this purpose. The letter, widely discussed, rules out the use of this property for a municipal office use (Harbormaster) but did go on to say the building may be used by the Harbormaster for some type of accessory use in connection with and related to the CPA recreational uses allowable, provided this is approved by the Conservation Commission.

Coastal Resiliency Projects

The site had been selected, independent of our task force work and charge, for a coastal resiliency demonstration project. Specifically, the Pleasant Bay Alliance had selected the Town conservation parcel for demonstration of a pilot salt marsh enhancement project. The concept, salt marsh nourishment and elevation enhancements through sediment deposition, was supported by the Conservation Commission but did not go forward. The 141TF has no specific recommendation on concept projects such as these due to not being charged with our investigation. However, it is noteworthy that the site contains several sensitive coastal resource areas that make it ideal for study if in the future.

Site for future Municipal Pier

Although not a recommendation, we did discuss the general site conditions and if they would be suitable for the installation of a future municipal pier. The property is not in an area subject to prohibition for the installation of new piers in Pleasant Bay therefore making it a viable discussion. The bathymetry was examined and did demonstrate a pier would not conform to current design and performance standards. While this alone would not preclude the Town with seeking a proposal for such a facility we did not work on this concept further and identify all of the relief it may have needed to be permissible.

Closing

The 141TF thought it was important you be advised on all the ideas and concepts for use that were discussed during our meetings. While none of the above concepts are being advanced through this final report, and the summary discussions above were kept purposefully brief, value may be found in some of our discussions, minutes, and supporting materials if the Conservation Commission chooses to advance any one of these concepts for the property.

Appendices

- A: Town Meeting Article, Doings
- B: Gilmore Letter
- C: Property Deed
- D: Town Meeting Article: Smith Beach
- E: Task Force Charge
- F: Legal Opinions from Town Counsel RE 141 Portanimicut Road (2)
- G: Existing Conditions Site Plans (3)
- H: Potential Use Ranking Tables (2)
- I: Parking Concept Plans (4)
- J: Public Correspondence and Letters

APPENDIX A



TOWN OF ORLEANS

19 SCHOOL ROAD ORLEANS MASSACHUSETTS 02653-3699

Telephone (508) 240-3700 Extension 305 - Fax (508) 240-3386

OFFICE OF
TOWN CLERK

The following is a certified copy of Article #3 and the "DOINGS" thereof from the Special Town Meeting of May 9, 2016:

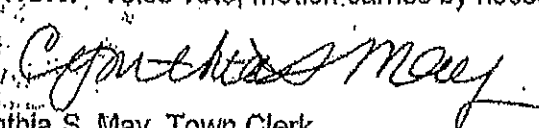
ARTICLE 3. PURCHASE PROPERTY AT 141 PORTANIMICUT ROAD.

Selectmen Alan McClennen removed himself from the Board of Selectmen's table and he did not participate in any discussion of nor did he vote on this article.

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, by purchase or otherwise, for open space and recreation purposes, the property located at 141 Portanimicut Road, shown on Town of Orleans Assessors Map 76 as Parcel 24, and more particularly described in a deed recorded at Barnstable County Registry of Deeds in Book 8707, Page 313 and shown on a plan of land recorded in Plan Book 136, Page 91, and to transfer from Community Preservation Act funds the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for such acquisition; and to further authorize the Board of Selectmen and the Conservation Commission to execute any and all documents as may be necessary on behalf of the Town to carry out the provisions of this article, or to take any other action relative thereto. (Simple Majority Vote Required)

MOTION: To accept and adopt Article #3 and that the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) be transferred from the Community Preservation Fund for this purpose as follows: Two Hundred Forty Six Thousand Six Hundred Ninety Eight and 00/100 Dollars (\$246,698.00) from the Sparrow Open Space reserve, Sixteen Thousand One Hundred Nine and 00/100 Dollars (\$16,109.00) from the Toop Fund; and Two Hundred Thirty Seven Thousand One Hundred Ninety Three and 00/100 Dollars (\$237,193.00) from the CPA unreserved fund balance, for a total of Five Hundred Thousand and 00/100 Dollars (\$500,000.00); and that the Board of Selectmen and the Conservation Commission be authorized to take all actions necessary to carry out the acquisition of the property described in the article.

ACTION: Voice vote, motion carries by necessary majority.


Cynthia S. May, Town Clerk

ANNUAL TOWN MEETING
"DOINGS"
May 7, 2018

The Annual and Special Town Meetings were held on Monday, May 7, 2018 in the Nauset Regional Middle School Gym. The Annual Town Meeting was opened at 7:00 p.m. after a quorum of 200 voters was declared by the Town Clerk. Election workers were: Mary Walker, Susan Milton, Cynthia Eagar, Patricia Bradley, Lynda Burwell, and Elizabeth Peters. Constables on duty were Paul Kelly and Mary Stevens. Tellers were: Susan Milton, Patricia Bradley, Walter Swidrak, and Ken Rowell. A total of 491 voters were in attendance.

ARTICLE 51. DESIGNATE END OF PORTANIMICUT ROAD AS PAW WAH LANDING, AND DESIGNATE 141 PORTANIMICUT ROAD AS SMITH BEACH – BY PETITION

To see if the Town will vote to:

Officially name the public landing at the end of Portanimicut Road in South Orleans "Paw Wah Landing", and that the 141 Portanimicut property purchased by the Town in 2016 officially be named "Smith Beach". The naming of the 141 Portanimicut property as "Smith Beach" would acknowledge the generosity of the Smith/Gilmore Family. This parcel of land has been known to the local community as Smith Beach for many, many years. Naming the town landing "Paw Wah Landing" rather than the family name of the donors would acknowledge the "legend of Pompmo", referred to as a Medicine Man (Pompmo is the Native American term for "medicine man"), and Pompmo is thought to have resided at the end of Portanimicut Road. This naming would also be in keeping with Paw Wah Pond and Paw Wah Conservation Area that is directly across from the landing.

Naming the landing Paw Wah Landing is acknowledgement enough of the generosity of the two families, the Bergers and the Smiths, whose donation of property allowed for the bulkhead and launching ramp to be built giving the community at large access to Little Pleasant Bay. These donations of land, where the bulkhead and launching ramp are located, were done without any compensation in any form in 1960. The value to the community of having access to Pleasant Bay is immeasurable in monetary terms. It is important that we as a community continue to acknowledge and maintain the historical value and legacy of the people that resided here long before any who reside here now; or to take any other action relative thereto. (2/3 Majority Vote Required)

MOTION: To accept and adopt Article #51 as printed in the warrant.

ACTION: Voice voted, motion carries by the necessary 2/3 majority.

ARTICLE 52. DESIGNATE 141 PORTANIMICUT ROAD AS SMITH LANDING – BY PETITION

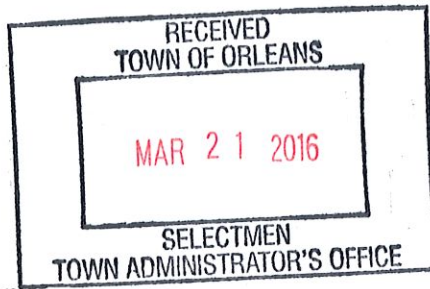
To see if the Town will vote to:

Designate 141 Portanimicut Road and included real estate as Smith Landing, or to take any other action relative thereto. (2/3 Majority Vote Required)

MOTION: To indefinitely postpone.

ACTION: Voice voted, motion carries unanimously.

APPENDIX B



27 Broken Dike Way
Centerville MA 02632-3654
March 20, 2016

The Orleans Board of Selectmen
c/o Orleans Town Hall
Orleans MA 02653

Gentle Persons:

In the later part of the 19th Century, our Grandfather, Stanley W. Smith, purchased about 25 acres of land along Portanimicut Road, most of which was located at 89 Portanimicut Road and the remainder was to reach from what is now the O'Brien Property to the Shore of Little Pleasant Bay, but owing to a disagreement between Grandfather Smith and Charlie Rogers (the Owner of that Property at the time), Charlie took it upon himself to sell what is now the McCartney Property to a Long Island couple by the name of Recknagel. So it is that the 141 property has a kind of unusual shape, and also meant that the Recknagels had purchased a wonderful view, but no waterfront. My Bothers and I have fashioned a Proposal to remedy this problem - sort of - by offering 141 Portanimicut Road to the Town of Orleans, under what we believe are attractive terms.

It is our intention that this parcel of land, including improvements, be offered to the Town for the sum of \$800,000, \$500,000 of which would be paid in cash and \$300,000 in the form of a gift to the Town. The only caveat that we will suggest is the naming of the resultant Town Landing in the names of our Mother, Ann Johnstone (Smith) Gilmore, and our Grandfather, Stanley Webster Smith, to honor their stewardship of the land for the past 126 years. It may be of interest (amusement?) for the Board to know that Stanley paid about \$100 for the whole transaction and believed until his Death in 1941 that Charlie Rogers had treated him badly!

It is our further hope that this proposal may be swiftly acted upon so that we may make alternative plans, if needs be. Of interest and, perhaps a bit compelling to the Brothers Gilmore, this property has been made available to the public for placing small boats on the beach, for swimming and recreation with families and for simply walking on the beach with your toes in the sea that you might be refreshed by the experience, for nearly 40 years. We felt reasonably certain that that practice would likely not continue if the property were to be sold to a successor Private Party.

Respectfully Submitted,


Jeremy F. Gilmore
(508) 367-9842

On behalf of Jonathan B. Gilmore, Jeremy F. Gilmore and Peter J. Gilmore

APPENDIX C

DEED

Jonathan B. Gilmore, Trustee of The Sand Heap Trust II Nominee Trust, under declaration of trust dated July 16, 1993 and recorded with the Barnstable County Registry of Deeds in Book 8707 Page 307, with an address of South Orleans, MA (Grantor),

for consideration of One (\$1.00) Dollar, paid,

grant to the Town of Orleans, a Massachusetts municipal corporation with an address of 19 School Road, Orleans, MA 02653, (Grantee) to be under the jurisdiction of the Board of Selectmen for recreation purposes, pursuant to the vote under Article 3 of the Town of Orleans Special Town Meeting held on May 9, 2016, a copy of which is attached hereto as Exhibit A.

with Quitclaim Covenants,

all right, title and interest in the land, together with the improvements thereon, located in Orleans, Massachusetts, bounded and described as follows:

The parcel delineated ".04 Acre ± Smith to Town of Orleans" as shown on a plan entitled "Plan of Land in South Orleans, Mass. as surveyed for the Town of Orleans May 1960 - Scale: 1" = 20 Feet Arthur L. Sparrow Co., Engineers South Orleans, Mass." which plan is recorded in Barnstable Plan Book 166 Page 139. This parcel is a portion of the Town Landing.

For title reference see the deed recorded in the Barnstable County Registry of Deeds in Book 8707 Page 313.

Grantor releases any and all homestead rights created either automatically by operation of law or by a written declaration that is recorded, and hereby certifies that there are not any other persons entitled to any rights of homestead under M.G.L. c. 188 in the premises conveyed by this deed.

Property Address: Portanimicut Road, Orleans, MA 02653

I, the undersigned, being the sole incumbent Trustee of the above-described trust do hereby certify, under the pains and penalties of perjury, the following: 1) I am the sole incumbent Trustee of said Trust; 2) said Trust has not been terminated, amended or revoked and remains in full force and effect as originally executed and recorded as described above; 3) I, as Trustee of said Trust, have been authorized and directed by all of the beneficiaries of said Trust: (a) to sell the above-described property to the grantee herein; and (b) to execute the within deed and any other agreements, instruments or documents as I deem necessary in order to effectuate said transaction; and 4) no beneficiary of this Trust is a minor, a corporation selling all or substantially all of its Massachusetts assets, or a personal representative of an estate subject to estate tax liens, or is now deceased or under any legal disability.

DEED

Jonathan B. Gilmore, Trustee of The Sand Heap Trust II Nominee Trust, under declaration of trust dated July 16, 1993 and recorded with the Barnstable County Registry of Deeds in Book 8707 Page 307, with an address of South Orleans, MA (Grantor),

for consideration of Five Hundred Thousand (\$500,000.00) Dollars, paid,

grant to the Town of Orleans, a Massachusetts municipal corporation with an address of 19 School Road, Orleans, MA 02653, (Grantee) for open space and recreation purposes pursuant to the provisions of the Community Preservation Act, M.G.L. c. 44B, to be under the jurisdiction of the Conservation Commission, pursuant G.L.c. 40, §8C, as authorized by the vote under Article 3 of the Town of Orleans Special Town Meeting held on May 9, 2016, a copy of which is attached hereto as Exhibit A.

40/90
PASSIVE
RFE

with Quitclaim Covenants,

the land, together with the improvements thereon, located in Orleans, Massachusetts, bounded and described as follows:

Tract One:

The land in Orleans in Barnstable County, Massachusetts, being part of the premises shown on a plan entitled "Plan of Land in South Orleans as surveyed for Stanley W. & Albert P. Smith", dated September 1931, by Arthur L. Sparrow, Engineer, South Orleans, Mass., duly recorded with the Barnstable Registry of Deeds in Plan Book 136, Page 91, on July 30, 1957, being bounded and described as follows:

Beginning at the northwesterly corner of the granted premises at the northeasterly corner of land formerly of Ethel W. Lockwood, now or formerly of John C. Recknagel, at a concrete bound on the southerly side line of Portanimitcut Road as shown on said plan;

Thence S 88° 46' 20" E by said southerly side line of said Portanimitcut Road approximately 226.00 feet to the intersection of said southerly side line of said Portanimitcut Road with the westerly side of Paw Wah Creek;

Thence by said westerly side of said Paw Wah Creek in a southeasterly direction to the edge of the sedge of Little Pleasant Bay;

Thence following various courses in a general southwesterly direction by said edge of the sedge of Little Pleasant Bay to the point of intersection of Little Pleasant Bay and the most northeasterly point of property now or formerly of Laura N. Nickerson at al., which point is approximately 68.00 feet from a drill hole in a flat stone in the middle of the marsh on a line S 49° 08' 20" E of said drill hole;

Thence approximately 68.00 feet N 49° 08' 20" W by said Nickerson land to said drill hole in a stone in the middle of the marsh as shown on said plan;

Thence on a line N 45° 43' 00" E about 80.00 feet along property previously conveyed to Albert O. Smith by deed recorded on July 10, 1964, Barnstable Registry of Deeds, Book 1260, Page 488 to the southeasterly corner of said Albert O. Smith land in the middle of the marsh;

Thence approximately N° 39' 00" W about 155.00 feet still by said Albert O. Smith land to a concrete bound on the southwesterly side of said Recknagel land as shown on said plan;

Thence N 70° 54' 40" N by said Recknagel land 181.11 feet to a concrete bound on the southeasterly corner of said Recknagel land as shown on said plan;

Thence N 14' 14' 00" W still by said Recknagel land 217.30 feet to a concrete bound in the southerly side line of Portanimitcut Road at the point of beginning.

Tract Two:

Also the parcel of land in Orleans (South), Barnstable County, Massachusetts, being Parcel A as shown on a plan entitled "Plan showing a relocation of property line as shown on plan recorded in Plan Book 136; Page 91, Land in South Orleans, Mass. prepared for Gerald P. Gilmore, Scale, 1" = 30', March 26, 1979, Down Cape Engineering, Civil Engineers, Land Surveyors" and recorded in the Barnstable Registry of Deeds in Plan Book 343, Page 39. Said parcel contains 1275 square feet of land, more or less, according to said plan.

Excepted Parcels:

This conveyance excepts and excludes the Excepted Parcel (as described below) which was previously conveyed by deed of Ann J. Gilmore dated May 15, 1980, and recorded with the Registry at Book 3099, Page 274. The Excepted Parcel is more particularly described as follows: the parcel of land in South Orleans, Barnstable County, Massachusetts, being Parcel B as shown on a plan entitled "Plan showing a relocation of property line as shown on plan recorded in Plan Book 136, Page 91, Land in South Orleans, Mass. prepared for Gerald F. Gilmore, Scale: 1" = 30', March 26, 1979, Down Cape Engineering, Civil Engineers, Land Surveyors" and recorded in Barnstable Registry of Deeds in Plan Book 343, Page 39. Said parcel contains 1275 square feet of land, more or less, according to said plan.

This conveyance also excepts and excludes the parcel delineated ".04 Acre ± Smith to Town of Orleans" as shown on a plan entitled "Plan of Land in South Orleans, Mass. as surveyed for the Town of Orleans May 1960 -- Scale: 1" = 20 Feet Arthur L. Sparrow Co., Engineers South Orleans, Mass." which plan is recorded in Barnstable Plan Book 166 Page 139. Said parcel is part of the Town Landing and was previously conveyed by the Grantor to the Town of Orleans, by deed recorded immediately prior hereto.

Executed as a sealed instrument under the pains and penalties of perjury this 15th day of July, 2016.

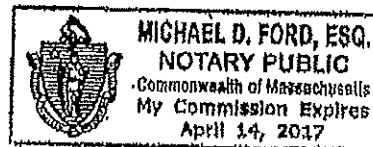
Jonathan B. Gilmore
Jonathan B. Gilmore, Trustee

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 15th day of July, 2016, before me, the undersigned notary public, personally appeared, Jonathan B. Gilmore, Trustee, as aforesaid, proved to me through satisfactory evidence of identification, which was Mark Dineen's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily as Trustee for its stated purpose and who swore or affirmed to me that the contents of this document are truthful and accurate to the best of his knowledge and belief.

Michael D. Ford
Notary Public:
My Commission Expires: _____



APPENDIX D

ANNUAL TOWN MEETING
"DOINGS"
May 7, 2018

The Annual and Special Town Meetings were held on Monday, May 7, 2018 in the Nauset Regional Middle School Gym. The Annual Town Meeting was opened at 7:00 p.m. after a quorum of 200 voters was declared by the Town Clerk. Election workers were: Mary Walker, Susan Milton, Cynthia Eagar, Patricia Bradley, Lynda Burwell, and Elizabeth Peters. Constables on duty were Paul Kelly and Mary Stevens. Tellers were: Susan Milton, Patricia Bradley, Walter Swidrak, and Ken Rowell. A total of 491 voters were in attendance.

ARTICLE 51. DESIGNATE END OF PORTANIMICUT ROAD AS PAW WAH LANDING, AND DESIGNATE 141 PORTANIMICUT ROAD AS SMITH BEACH – BY PETITION

To see if the Town will vote to:

Officially name the public landing at the end of Portanimicut Road in South Orleans "Paw Wah Landing", and that the 141 Portanimicut property purchased by the Town in 2016 officially be named "Smith Beach". The naming of the 141 Portanimicut property as "Smith Beach" would acknowledge the generosity of the Smith/Gilmore Family. This parcel of land has been known to the local community as Smith Beach for many, many years. Naming the town landing "Paw Wah Landing" rather than the family name of the donors would acknowledge the "legend of Pompmo", referred to as a Medicine Man (Pompmo is the Native American term for "medicine man"), and Pompmo is thought to have resided at the end of Portanimicut Road. This naming would also be in keeping with Paw Wah Pond and Paw Wah Conservation Area that is directly across from the landing.

Naming the landing Paw Wah Landing is acknowledgement enough of the generosity of the two families, the Bergers and the Smiths, whose donation of property allowed for the bulkhead and launching ramp to be built giving the community at large access to Little Pleasant Bay. These donations of land, where the bulkhead and launching ramp are located, were done without any compensation in any form in 1960. The value to the community of having access to Pleasant Bay is immeasurable in monetary terms. It is important that we as a community continue to acknowledge and maintain the historical value and legacy of the people that resided here long before any who reside here now; or to take any other action relative thereto. (2/3 Majority Vote Required)

MOTION: To accept and adopt Article #51 as printed in the warrant.

ACTION: Voice voted, motion carries by the necessary 2/3 majority.

APPENDIX E



Town of Orleans Conservation Commission

Town Hall • 19 School Road • Orleans, Massachusetts 02653-3699

Tel: (508) 240-3700 Ext. 425 / Fax: (508) 240-3388

141 Portanimicut Road Task Force

The property at 141 Portanimicut Road is one of the 15 Conservation properties in Town that are open to public for passive recreation. This 2.5 acre parcel includes a house, beach, marsh, and is adjacent to the busy Portanimicut Landing. The property was purchased by the Town in 2016 for “open space and recreation purposes”. As a recently acquired property under the jurisdiction and control of the Conservation Commission it requires a Land Management Plan. To accomplish this, the Conservation Commission shall appoint 5 members to the Task Force. At least 2 members shall be Conservation Commissioners and shall serve as chair and vice chair and clerk. The remaining members will be selected by the Conservation Commission. The Conservation Administrator will serve as ex-officio non-voting members. The Task Force is encouraged to involve the public in all of the Tasks described below and shall be responsible for setting their own meeting schedule and adhering to the open meeting laws.

The Task Force is charged with the following Tasks:

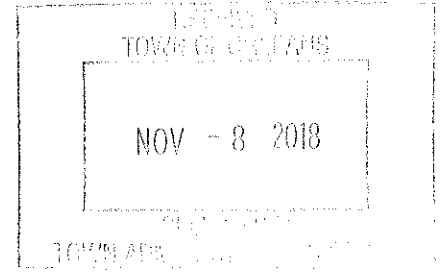
- 1. Review and study all relevant materials related to 141 Portanimicut Road. Including but not limited to, the deed, property history, the Town Meeting Article and funding, and all other relevant materials related to the property.*
- 2. Review the typically allowed and prohibited uses for the property; discuss both the existing and all possible uses. Determine if uses are appropriate or if new actions are needed to allow the uses on the property. If new actions are needed, include what they are and how the Commission would implement them.*
- 3. Review public access to the property including a review of any parking, circulation, access improvements, coordination with adjacent municipal landing property, creation of new public amenities, and enhancements to the water. Determine if changes are needed and make*

recommendations to the Conservation Commission. If recommendations for parking or access improvements are made, consider if limitations such as access control or parking restrictions (sticker or resident only) are necessary.

- 4. Prepare a report that will serve as an outline for a management plan including any and all recommendations made by the Task Force. Include as much detail as necessary so that the Conservation Commission can use this as a guiding document new Land Management Plan. Before finalizing the report, the task force shall post a draft report on the Town website and make the draft publically available. At least one follow up task force meeting shall be held to discuss public comments received and allow the Task Force to incorporate any public comments into their final report.*
- 5. Upon completion of the charge and submission of the final report the Task Force shall terminate.*

APPENDIX F

FORD & FORD
ATTORNEYS AT LAW
72 MAIN STREET, P.O. BOX 485
WEST HARWICH, MA 02671
TEL. (508)430-1900 FAX (508)430-9979
mike@fordandfordattorneys.com



MICHAEL D. FORD
JEFFREY M. FORD

October 23, 2018

John Kelly, Town Administrator
Town of Orleans
19 School Road
Orleans, MA 02653

Re: 141 Portanimicut Road, Orleans, MA (Assessors Map 76 Parcel 24)

Dear Mr. Kelly:

The Town acquired the property located at 141 Portanimicut Road from the Gilmore family for the sum of \$500,000 with community Preservation Act funds for recreation and open space purposes pursuant to a deed recorded in the Barnstable Registry of Deeds on July 15, 2016, in Book 29798 Page 184. At the same time, the Town also acquired by separate deed all of the Gilmore family's interest in the abutting Town Landing shown on Plan Book 166 Page 139 by deed recorded the same day in Book 29798 Page 181.

The 141 Portanimicut property abuts the Town Landing and is the site of an existing dwelling. You have asked for my opinion as to whether the existing building may be used as the Harbor Master's office. In connection with this review you have advised me that the new DPW building currently under construction on Giddiah's Hill Road already includes space for the Harbor Master's office.

Discussion

With respect to open space and recreation, CPA funds may be used for "the acquisition, creation and preservation of open space; ...; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; ...; and for the rehabilitation or restoration of open space...that is acquired or created as provided in this section; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance. ... With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.

The CPA defines "Recreational use" as "active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field. 'Recreational use' shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure."

The CPA defines "Open space" to "include, but not be limited to, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use."

The CPA defines "Rehabilitation" as "capital improvements, or the making of extraordinary repairs, to historic resources, open spaces, lands for recreational use ... for the purpose of making such historic resources, open spaces, lands for recreational use ... functional for their intended uses including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; ... provided further, that with respect to land for recreational use, "rehabilitation" shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related facilities more functional for the intended recreational use.

The CPA defines "Capital improvement" as "reconstruction or alteration of real property that: (1) materially adds to the value of the real property or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time."

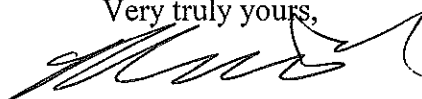
The CPA defines "Maintenance" as "incidental repairs which neither materially add to the value of the property nor appreciably prolong the property's life, but keep the property in a condition of fitness, efficiency or readiness."

Conclusion

Based upon my review of the CPA, the use of the property as the Harbor Master's office would not come within the CPA definition of recreation and open space use and thus would not be an allowed use of the property. However, it is possible that some type of accessory use of the building by the Harbor Master in connection with and related to CPA recreational uses would be allowable.¹

If you have any questions please do not hesitate to call at your convenience.

Very truly yours,



Michael D. Ford
Town Counsel

¹ The 141 Portanimitcut Road property is under the jurisdiction of the Conservation Commission pursuant to the deed recorded in Book 29798 Page 184 and thus the use of the property would be subject to the determination of the Conservation Commission.

cc: Board of Selectmen
Conservation Commission

DEED

Jonathan B. Gilmore, Trustee of The Sand Heap Trust II Nominee Trust, under declaration of trust dated July 16, 1993 and recorded with the Barnstable County Registry of Deeds in Book 8707 Page 307, with an address of South Orleans, MA (Grantor),

for consideration of Five Hundred Thousand (\$500,000.00) Dollars, paid,

grant to the Town of Orleans, a Massachusetts municipal corporation with an address of 19 School Road, Orleans, MA 02653, (Grantee) for open space and recreation purposes pursuant to the provisions of the Community Preservation Act, M.G.L. c. 44B, to be under the jurisdiction of the Conservation Commission, pursuant G.L.c. 40, §8C, as authorized by the vote under Article 3 of the Town of Orleans Special Town Meeting held on May 9, 2016, a copy of which is attached hereto as Exhibit A.

with Quitclaim Covenants,

the land, together with the improvements thereon, located in Orleans, Massachusetts, bounded and described as follows:

Tract One:

The land in Orleans in Barnstable County, Massachusetts, being part of the premises shown on a plan entitled "Plan of Land in South Orleans as surveyed for Stanley W. & Albert P. Smith", dated September 1931, by Arthur L. Sparrow, Engineer, South Orleans, Mass., duly recorded with the Barnstable Registry of Deeds in Plan Book 136, Page 91, on July 30, 1957, being bounded and described as follows:

Beginning at the northwesterly corner of the granted premises at the northeasterly corner of land formerly of Ethel W. Lockwood, now or formerly of John C. Recknagel, at a concrete bound on the southerly side line of Portanmicut Road as shown on said plan;

Thence S 88° 46' 20" E by said southerly side line of said Portanmicut Road approximately 226.00 feet to the intersection of said southerly side line of said Portanmicut Road with the westerly side of Paw Wah Creek;

Thence by said westerly side of said Paw Wah Creek in a southeasterly direction to the edge of the sedge of Little Pleasant Bay;

Thence following various courses in a general southwesterly direction by said edge of the sedge of Little Pleasant Bay to the point of intersection of Little Pleasant Bay and the most northeasterly point of property now or formerly of Laura N. Nickerson at al., which point is approximately 68.00 feet from a drill hole in a flat stone in the middle of the marsh on a line S 49° 08' 20" E of said drill hole;

Thence approximately 68.00 feet N 49° 08' 20" W by said Nickerson land to said drill hole in a stone in the middle of the marsh as shown on said plan;

Thence on a line N 45° 43' 00" E about 80.00 feet along property previously conveyed to Albert O. Smith by deed recorded on July 10, 1964, Barnstable Registry of Deeds, Book 1260, Page 488 to the southeasterly corner of said Albert O. Smith land in the middle of the marsh;

Thence approximately N° 39' 00" W about 155.00 feet still by said Albert O. Smith land to a concrete bound on the southwesterly side of said Recknagel land as shown on said plan;

Thence N 70° 54' 40" N by said Recknagel land 181.11 feet to a concrete bound on the southeasterly corner of said Recknagel land as shown on said plan;

Thence N 14' 14' 00" W still by said Recknagel land 217.30 feet to a concrete bound in the southerly side line of Portanimitcut Road at the point of beginning.

Tract Two:

Also the parcel of land in Orleans (South), Barnstable County, Massachusetts, being Parcel A as shown on a plan entitled "Plan showing a relocation of property line as shown on plan recorded in Plan Book 136, Page 91, Land in South Orleans, Mass. prepared for Gerald P. Gilmore, Scale, 1" = 30', March 26, 1979, Down Cape Engineering, Civil Engineers, Land Surveyors" and recorded in the Barnstable Registry of Deeds in Plan Book 343, Page 39. Said parcel contains 1275 square feet of land, more or less, according to said plan.

Excepted Parcels:

This conveyance excepts and excludes the Excepted Parcel (as described below) which was previously conveyed by deed of Ann J. Gilmore dated May 15, 1980, and recorded with the Registry at Book 3099, Page 274. The Excepted Parcel is more particularly described as follows: the parcel of land in South Orleans, Barnstable County, Massachusetts, being Parcel B as shown on a plan entitled "Plan showing a relocation of property line as shown on plan recorded in Plan Book 136, Page 91, Land in South Orleans, Mass. prepared for Gerald F. Gilmore, Scale: 1" = 30', March 26, 1979, Down Cape Engineering, Civil Engineers, Land Surveyors" and recorded in Barnstable Registry of Deeds in Plan Book 343, Page 39. Said parcel contains 1275 square feet of land, more or less, according to said plan.

This conveyance also excepts and excludes the parcel delineated ".04 Acre ± Smith to Town of Orleans" as shown on a plan entitled "Plan of Land in South Orleans, Mass. as surveyed for the Town of Orleans May 1960 - Scale: 1" = 20 Feet Arthur L. Sparrow Co., Engineers South Orleans, Mass." which plan is recorded in Barnstable Plan Book 166 Page 139. Said parcel is part of the Town Landing and was previously conveyed by the Grantor to the Town of Orleans, by deed recorded immediately prior hereto.

Executed as a sealed instrument under the pains and penalties of perjury this 15th day of July, 2016.

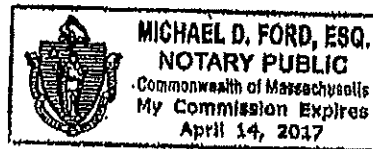
Jonathan B. Gilmore
Jonathan B. Gilmore, Trustee

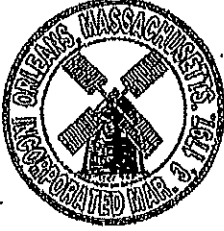
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 15th day of July, 2016, before me, the undersigned notary public, personally appeared, Jonathan B. Gilmore, Trustee, as aforesaid, proved to me through satisfactory evidence of identification, which was Mass. Driver's License to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily as Trustee for its stated purpose and who swore or affirmed to me that the contents of this document are truthful and accurate to the best of his knowledge and belief.

Michael D. Ford
Notary Public:
My Commission Expires: _____





TOWN OF ORLEANS

19 SCHOOL ROAD ORLEANS MASSACHUSETTS 02653-3699

Telephone (508) 240-3700 Extension 305 - Fax (508) 240-3386

OFFICE OF
TOWN CLERK

The following is a certified copy of Article #3 and the "DOINGS" thereof from the Special Town Meeting of May 9, 2016:

ARTICLE 3. PURCHASE PROPERTY AT 141 PORTANIMICUT ROAD.

Selectmen Alan McClennen removed himself from the Board of Selectmen's table and he did not participate in any discussion of nor did he vote on this article.

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, by purchase or otherwise, for open space and recreation purposes, the property located at 141 Portanimicut Road, shown on Town of Orleans Assessors Map 76 as Parcel 24, and more particularly described in a deed recorded at Barnstable County Registry of Deeds in Book 8707, Page 313 and shown on a plan of land recorded in Plan Book 136, Page 91, and to transfer from Community Preservation Act funds the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for such acquisition; and to further authorize the Board of Selectmen and the Conservation Commission to execute any and all documents as may be necessary on behalf of the Town to carry out the provisions of this article, or to take any other action relative thereto. (Simple Majority Vote Required)

MOTION: To accept and adopt Article #3 and that the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) be transferred from the Community Preservation Fund for this purpose as follows: Two Hundred Forty Six Thousand Six Hundred Ninety Eight and 00/100 Dollars (\$246,698.00) from the Sparrow Open Space reserve, Sixteen Thousand One Hundred Nine and 00/100 Dollars (\$16,109.00) from the Toop Fund; and Two Hundred Thirty Seven Thousand One Hundred Ninety Three and 00/100 Dollars (\$237,193.00) from the CPA unreserved fund balance, for a total of Five Hundred Thousand and 00/100 Dollars (\$500,000.00); and that the Board of Selectmen and the Conservation Commission be authorized to take all actions necessary to carry out the acquisition of the property described in the article.

ACTION: Voice vote, motion carries by necessary majority.


Cynthia S. May, Town Clerk

BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register

DEED

Jonathan B. Gilmore, Trustee of The Sand Heap Trust II Nominee Trust, under declaration of trust dated July 16, 1993 and recorded with the Barnstable County Registry of Deeds in Book 8707 Page 307, with an address of South Orleans, MA (Grantor),

for consideration of One (\$1.00) Dollar, paid,

grant to the Town of Orleans, a Massachusetts municipal corporation with an address of 19 School Road, Orleans, MA 02653, (Grantee) to be under the jurisdiction of the Board of Selectmen for recreation purposes, pursuant to the vote under Article 3 of the Town of Orleans Special Town Meeting held on May 9, 2016, a copy of which is attached hereto as Exhibit A.

with Quitclaim Covenants,

all right, title and interest in the land, together with the improvements thereon, located in Orleans, Massachusetts, bounded and described as follows:

The parcel delineated ".04 Acre ± Smith to Town of Orleans" as shown on a plan entitled "Plan of Land in South Orleans, Mass. as surveyed for the Town of Orleans May 1960 - Scale: 1" = 20 Feet Arthur L. Sparrow Co., Engineers South Orleans, Mass." which plan is recorded in Barnstable Plan Book 166 Page 139. This parcel is a portion of the Town Landing.

For title reference see the deed recorded in the Barnstable County Registry of Deeds in Book 8707 Page 313.

Grantor releases any and all homestead rights created either automatically by operation of law or by a written declaration that is recorded, and hereby certifies that there are not any other persons entitled to any rights of homestead under M.G.L. c. 188 in the premises conveyed by this deed.

Property Address: Portanimicut Road, Orleans, MA 02653

I, the undersigned, being the sole incumbent Trustee of the above-described trust do hereby certify, under the pains and penalties of perjury, the following: 1) I am the sole incumbent Trustee of said Trust; 2) said Trust has not been terminated, amended or revoked and remains in full force and effect as originally executed and recorded as described above; 3) I, as Trustee of said Trust, have been authorized and directed by all of the beneficiaries of said Trust: (a) to sell the above-described property to the grantee herein; and (b) to execute the within deed and any other agreements, instruments or documents as I deem necessary in order to effectuate said transaction; and 4) no beneficiary of this Trust is a minor, a corporation selling all or substantially all of its Massachusetts assets, or a personal representative of an estate subject to estate tax liens, or is now deceased or under any legal disability.

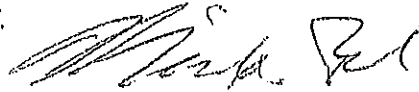
Executed as a sealed instrument under the pains and penalties of perjury this 15 day of July, 2016.


Jonathan B. Gilmore, Trustee

COMMONWEALTH OF MASSACHUSETTS

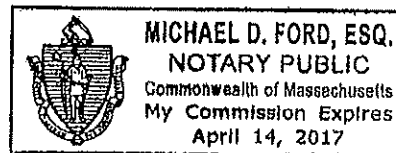
Barnstable, ss.

On this 15th day of July, 2016, before me, the undersigned notary public, personally appeared, Jonathan B. Gilmore, Trustee, as aforesaid, proved to me through satisfactory evidence of identification, which was Mr. David's License to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily as Trustee for its stated purpose and who swore or affirmed to me that the contents of this document are truthful and accurate to the best of his knowledge and belief.



Notary Public:

My Commission Expires: _____



FORD & FORD
ATTORNEYS AT LAW
72 MAIN STREET, P.O. BOX 485
WEST HARWICH, MA 02671
TEL. (508)430-1900 FAX (508)430-9979
mike@fordandfordattorneys.com

MICHAEL D. FORD
JEFFREY M. FORD

MEMORANDUM

To: Alan McClennen, Chair, Orleans Affordable Housing Trust Fund Board
Cc: John Kelly, Town Administrator
Cc: Conservation Commission
From: Michael D. Ford, Town Counsel
Re: Potential Use of Existing House at 141 Portanimitic Road as Affordable Housing
Date: December 28, 2020

The Orleans Affordable Housing Trust has requested my opinion as to whether or not the existing dwelling located on the 141 Portanimitic Road property could be rehabilitated by the Trust and rented as an affordable housing unit. In its request for an opinion, the Trust notes that it is aware of my letter to John Kelly, dated October 23, 2018, in which I opined that the possible reuse of "an existing dwelling" as an office for the Harbor Master would not comply with the CPA definition of recreation and open space use and thus would not be an allowed use of the property." The Trust advises that the house is being considered for removal by the 141 Portanimitic Road Task Force which was created by the Conservation Commission to prepare a management plan for the land. Records show that the house was built in 1979 by the Gilmore family. Although it is considered a seasonal house, Mr. McClennen advises that a member of the family did live in the house year-round for a period of time until it was sold to the Town on July 15, 2016. Members of the Trust have met with both the Conservation Commission and its Task Force and requested that they take no further action to demolish the dwelling until it can be determined whether or not it could be restored and preserved as an affordable housing unit. The Commission has made the Trust aware of Chapter 8 of the Environmental Handbook for Massachusetts Conservation Commissioners which is entitled Conservation Land Policy and Management. Section 8.7.6, entitled Existing Buildings, describes how existing buildings can be used on conservation land. The third paragraph points specifically to the use of buildings for "subsidized housing" provided the reuse can be related to the conditions described in the first two paragraphs.

As set forth in my prior letter dated October 23, 2018, the Town purchased the property with Community Preservation Act(CPA) funds for recreation and open space purposes. The CPA defines "Recreational use" as "active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field. 'Recreational use' shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure." The CPA defines "Open space" to "include, but not be limited to, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and

salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.”

In my opinion the property, including the structure, must be used for recreation and open space purposes, consistent with the CPA definitions. Under the guidance set forth in the above referenced Environmental Handbook the use of the existing structure is required to have some nexus to the principle uses of the property for recreation and open space purposes. It appears using the existing dwelling house or portion thereof for housing may share a sufficient enough nexus with these uses if the tenants performed maintenance of the house and/or premises in effect acting as an overseer or caretaker of the building and grounds. In this way the tenancy would be sufficiently linked to the recreation and open space purposes. The Conservation Commission would be responsible for determining whether such a housing use would fit into the overall management plan for the property. In that event the Trust might be able to participate in the rehabilitation and assist the Commission in the rental of the house incorporating the guidelines from the Land Use Management Plan.

However, if the Conservation Commission decides to proceed with a Management Plan that contemplates demolition the house, then the Conservation Commission could permit the Trust the opportunity to move the house to another location for use for affordable housing purposes.

Let me know if you any questions or would like to discuss this matter further.

APPENDIX G

SITE PLAN - SHOWING EXISTING CONDITIONS

Prepared for: **Town of Orleans**
 Location: **141 Portantimicut Road, Orleans, MA**

Ryder & Wilson, Inc., P.E. & P.L.S.

9 Chestnut Hill Rd.

P.O. Box 439, Orleans, MA 02652

Tel: (508) 256-8072

Fax: (508) 240-2306

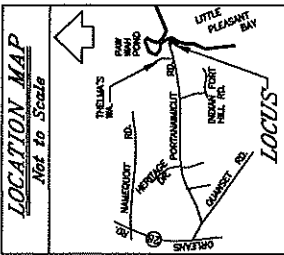
Scale = 1" = 30'

Drawn by RAH

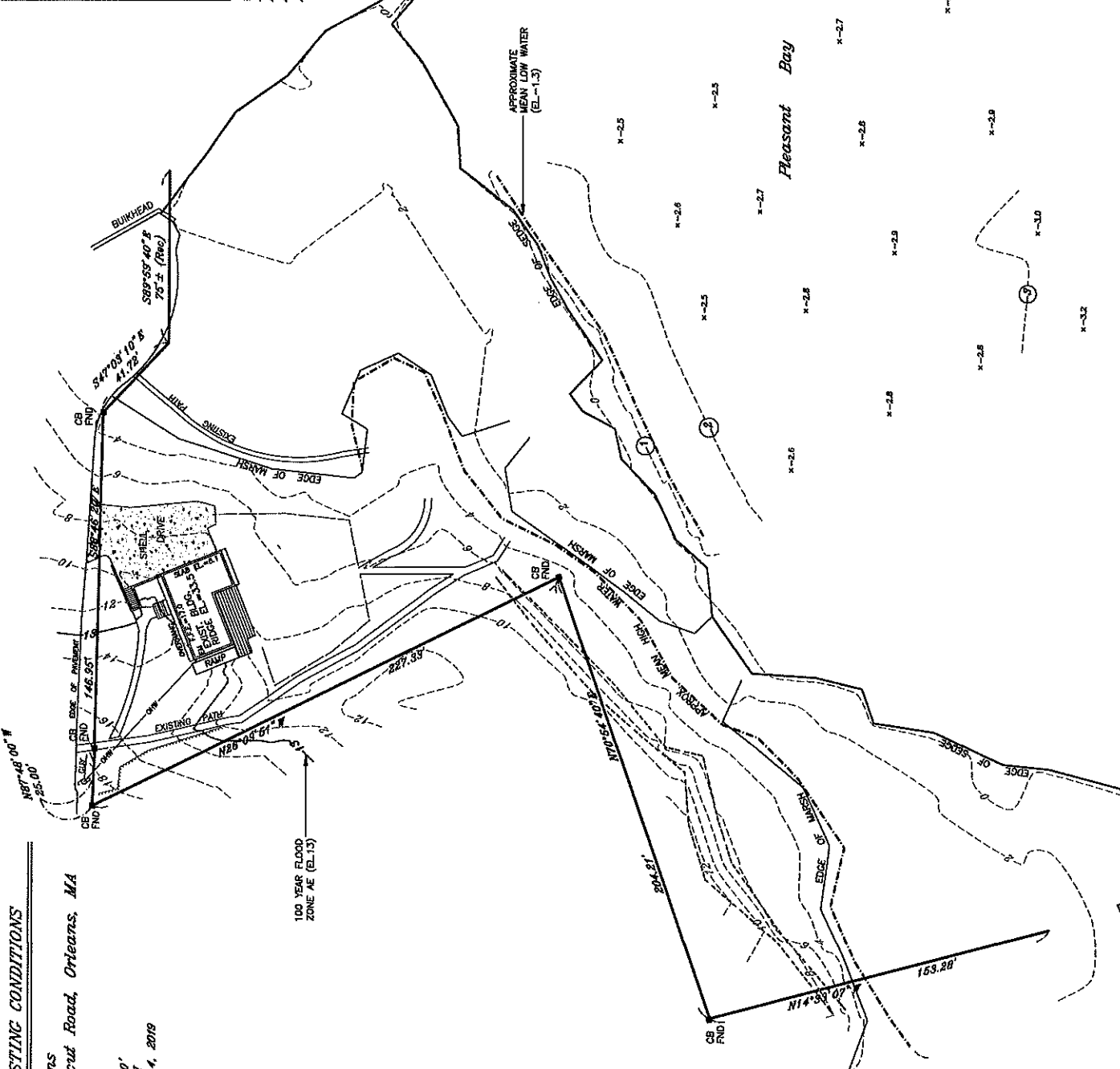
Date - March 4, 2019

SITE PLAN
 1" = 30'

DATUM
 NAVD 1988

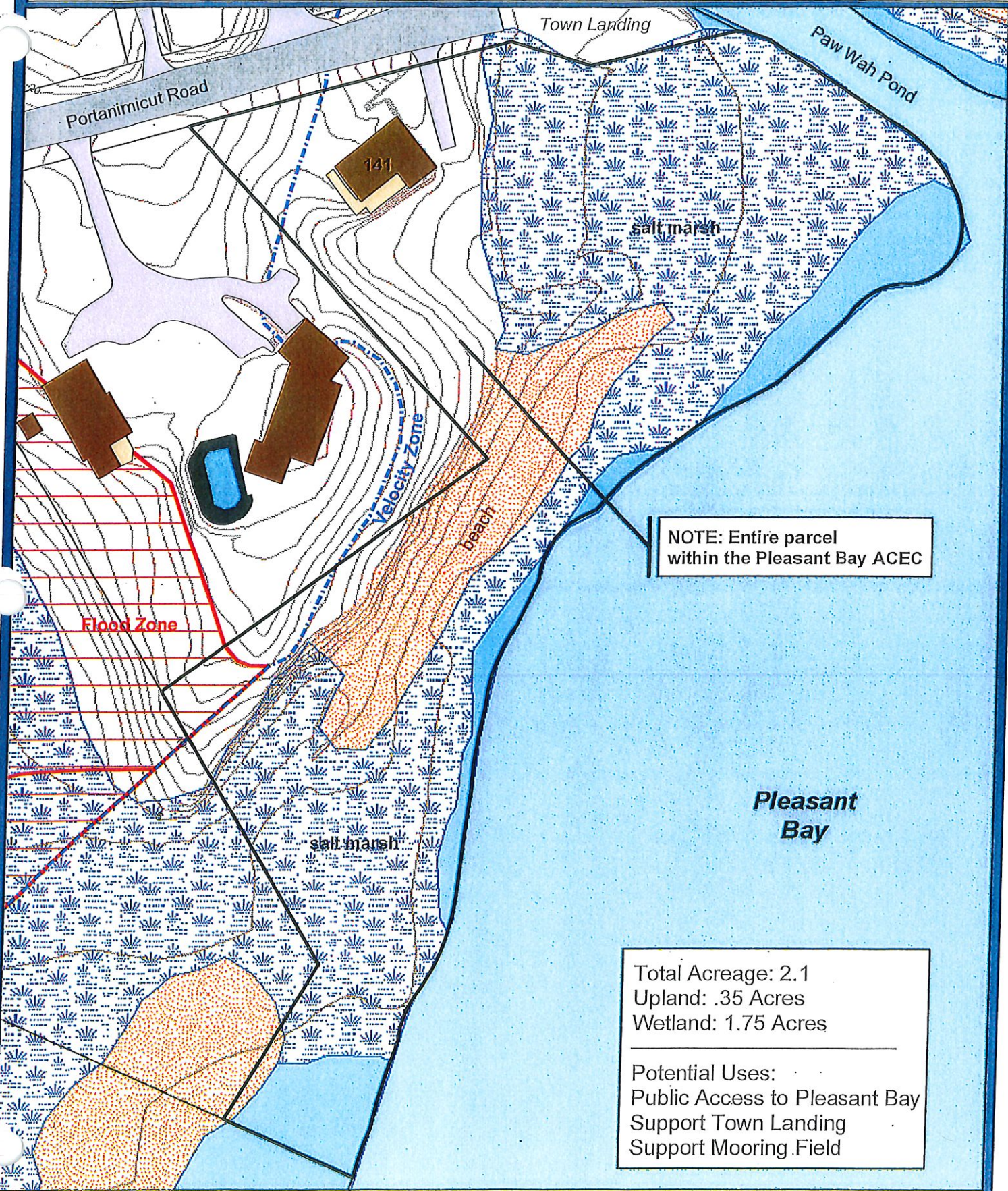


LOCUS
 ALST. S. 1867 76, PPL 24
 FL BL 196, Pp. 97
 FL BL 343, Pp. 89
 FL BL 186, Pp. 139





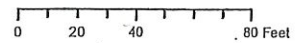
141 Portanimicut Road



NOTE: Entire parcel within the Pleasant Bay ACEC

Total Acreage: 2.1
 Upland: .35 Acres
 Wetland: 1.75 Acres

Potential Uses:
 Public Access to Pleasant Bay
 Support Town Landing
 Support Mooring Field

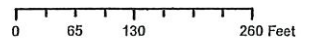




Orleans Conservation: GIS



This map is illustrative and intended for planning purposes only. Orleans Conservation, 2015



APPENDIX H

TABLE 1

POTENTIAL USE	ALLOWED	BUILDING DEPENDENT	Rank 1-5 with #1 being top recommendation for use						
			Ginny	Jack	Kayleen	Phil	Rus	Rank	
Bird watching	YES	NO	1	1	1	1	1	1	5
Kayaking	YES	NO	1	1	1	1	1	1	5
Picnicking	YES	NO	1	1	1	1	1	1	5
Scenic viewing	YES	NO	1	1	1	1	1	1	5
Trail walking	YES	NO	1	1	1	1	1	1	5
Beaching	YES	NO	2	1	1	1	1	1	6
Bike Racks	YES	NO	2	1	1	1	1	1	6
Dinghy storage	YES	NO	1	2	1	1	1	1	6
Parking- Additional off street parking (4 spots)	YES	NO	2	1	1	1	1	1	6
Coastal resiliency projects	YES	NO	1	1	3	1	2	2	8
Swimming	YES*	NO	2	2	1	3	1	1	9
Fishing	YES	NO	1	1	5	1	2	2	10
Kayak storage	YES	NO	2	1	1	5	1	1	10
Shellfish Propagation	YES	YES/NO	2	2	1	1	4	4	10
Viewing observation deck	YES	NO*	3	1	5	1	3	3	13
Aquaculture/shellfish propagation	YES	YES	5	1	5	1	3	3	15
Educational classes	YES	NO	3	5	5	1	2	2	16
Boating Instruction Classes	YES*	YES	4	3	5	1	4	4	17
Storage of aquaculture/boating misc.	YES	YES	5	2	5	1	4	4	17
Shellfishing Classes	YES*	YES	3	5	5	1	4	4	18
Lecture rooms	YES*	NO	5	5	5	2	3	3	20
Satelite Harbormaster Office	YES	YES	5	5	5	3	4	4	22

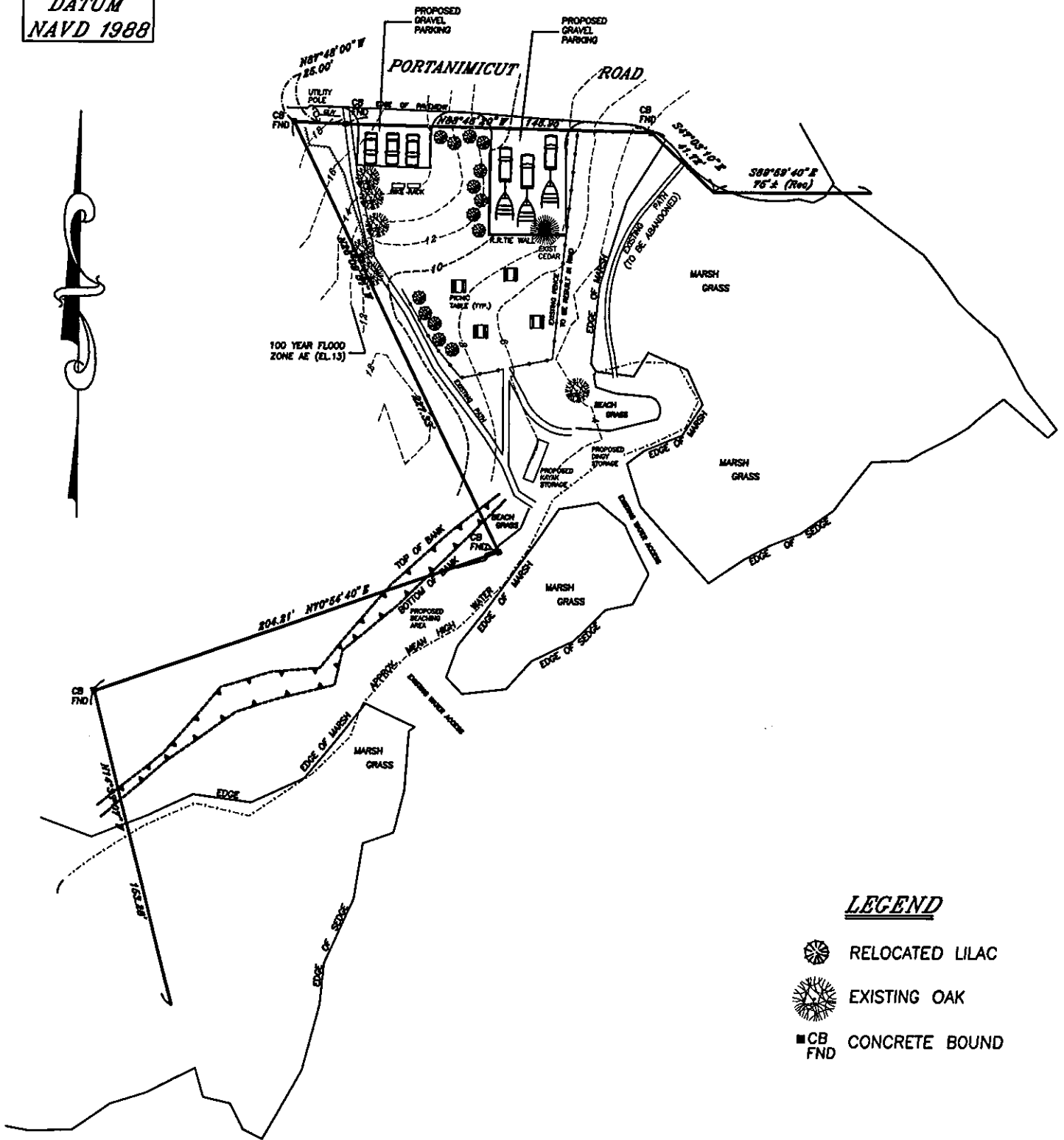
* Provided there is a connection to Conservation/Passive Recreation/Open Space

TABLE 2




POTENTIAL USE	ALLOWED	BUILDING DEPENDENT	Rank 1-5 with #1 being top recommendation for use						Rank
			Ginny	Jack	Kayleen	Phil	Rus	Rank	
Bike Racks	YES	NO	1	1	1	1	1	1	5
Bird watching	YES	NO	1	1	1	1	1	1	5
Parking- Additional off street parking (4 spots)	YES	NO	1	1	1	1	1	1	5
Picnicking	YES	NO	1	1	1	1	1	1	5
Scenic viewing	YES	NO	1	1	1	1	1	1	5
Beaching	YES	NO	1	1	1	2	1	1	6
Dinghy storage	YES	NO	1	2	1	1	1	1	6
Trail walking	YES	NO	1	1	1	1	1	2	6
Kayaking	YES	NO	1	1	3	1	1	1	7
Coastal resiliency projects	YES	NO	1	1	3	1	1	2	8
Kayak storage	YES	NO	1	1	5	3	1	1	11
Aquaculture/Shellfish propagation	YES	NO	3	1	3	2	3	3	12
Boating Instruction Classes	YES	NO	2	1	5	1	1	3	12
Fishing	YES	NO	3	1	5	1	1	4	14
Educational classes	YES	NO	2	5	5	2	2	2	16
Viewing observation deck	YES	NO	5	1	5	2	3	3	16
Swimming	YES	NO	5	2	5	3	3	3	18

APPENDIX I

DATUM
NAVD 1988



LEGEND

-  RELOCATED LILAC
-  EXISTING OAK
-  CONCRETE BOUND

SKETCH PLAN SHOWING POTENTIAL LAND DEVELOPMENT (Option 1)

Prepared for: 141 Task Force

Location: 141 Portanimicut Road, Orleans, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.

3 Giddiah Hill Rd.

P.O. Box 439

So. Orleans, MA, 02662

Tel. (508) 255-8312

Fax. (508) 240-2306

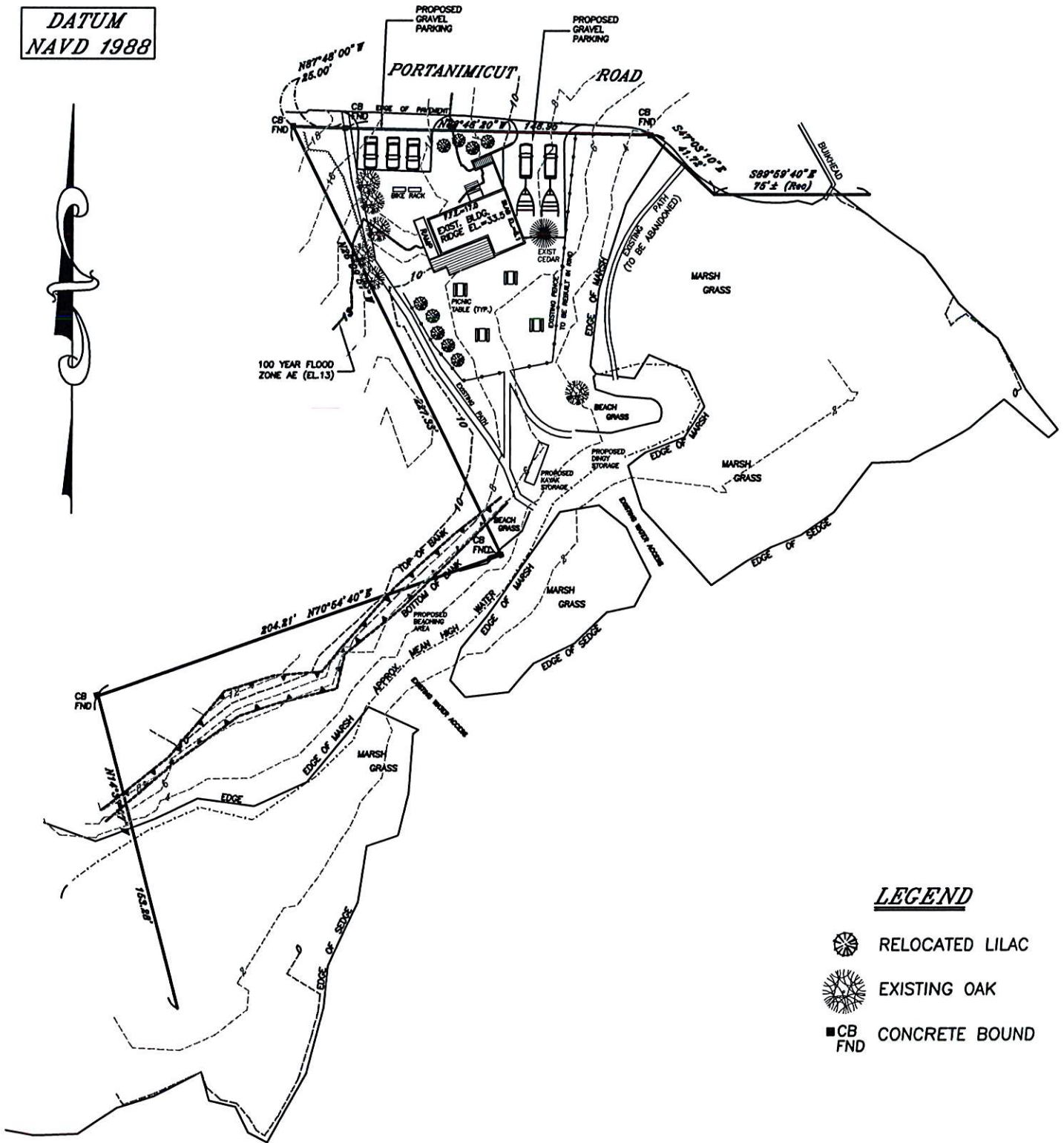
Scale - N.T.S.

Drawn by RAH




Date - December 19, 2020

Job No. 9450

DATUM
NAVD 1988



LEGEND

-  RELOCATED LILAC
-  EXISTING OAK
-  CB FND CONCRETE BOUND

SKETCH PLAN SHOWING POTENTIAL LAND DEVELOPMENT (Option II)

Prepared for: 141 Task Force

Location: 141 Portanimitcut Road, Orleans, MA

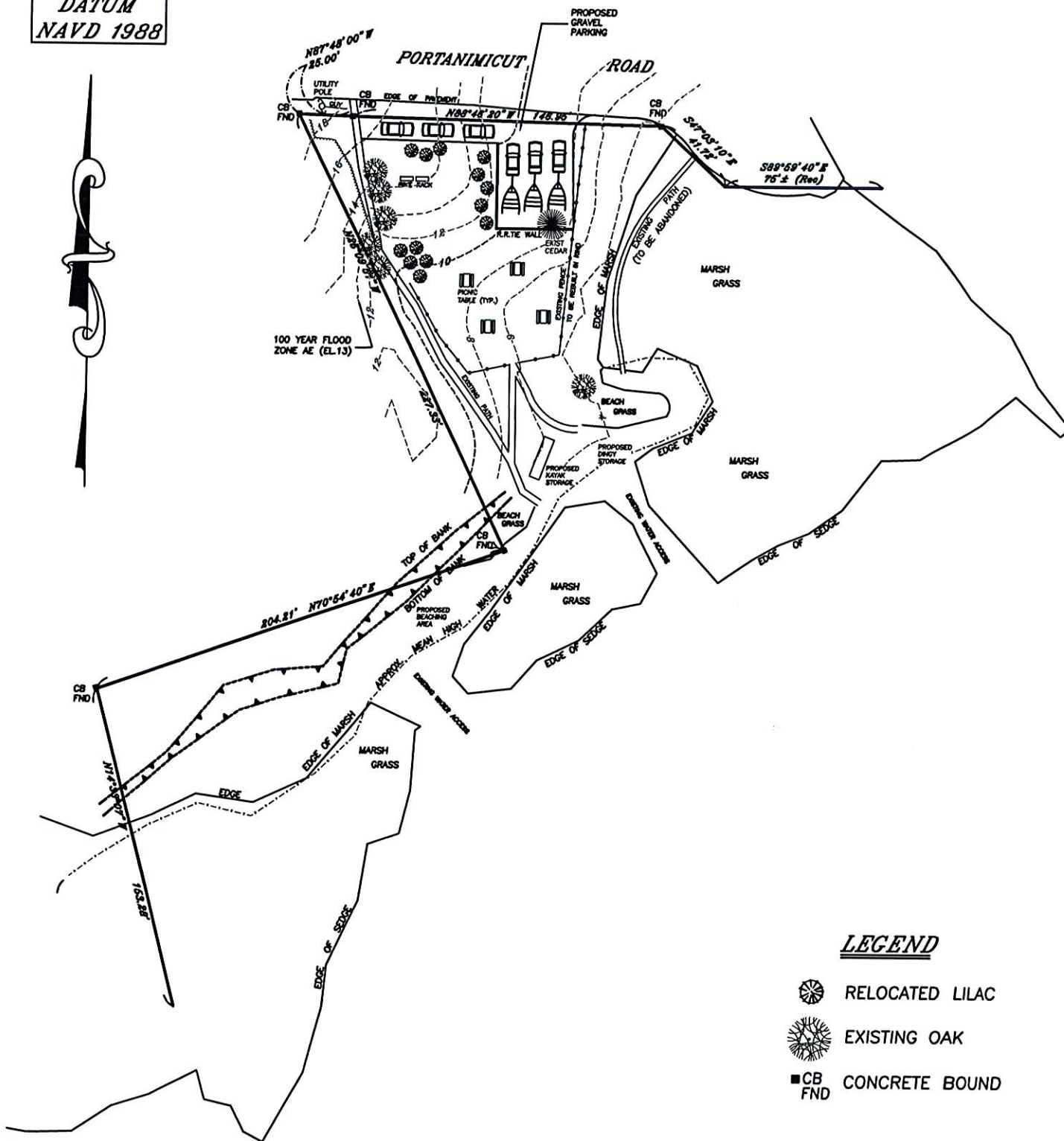
Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Giddiah Hill Rd.

P.O. Box 439
So. Orleans, MA., 02662
Tel. (508) 255-8312
Fax. (508) 240-2306




Scale - N.T.S.
Drawn by RAH
Date - December 19, 2020

Job No. 9450

DATUM
NAVD 1988



LEGEND

-  RELOCATED LILAC
-  EXISTING OAK
-  CONCRETE BOUND

SKETCH PLAN SHOWING POTENTIAL LAND DEVELOPMENT (Option III)

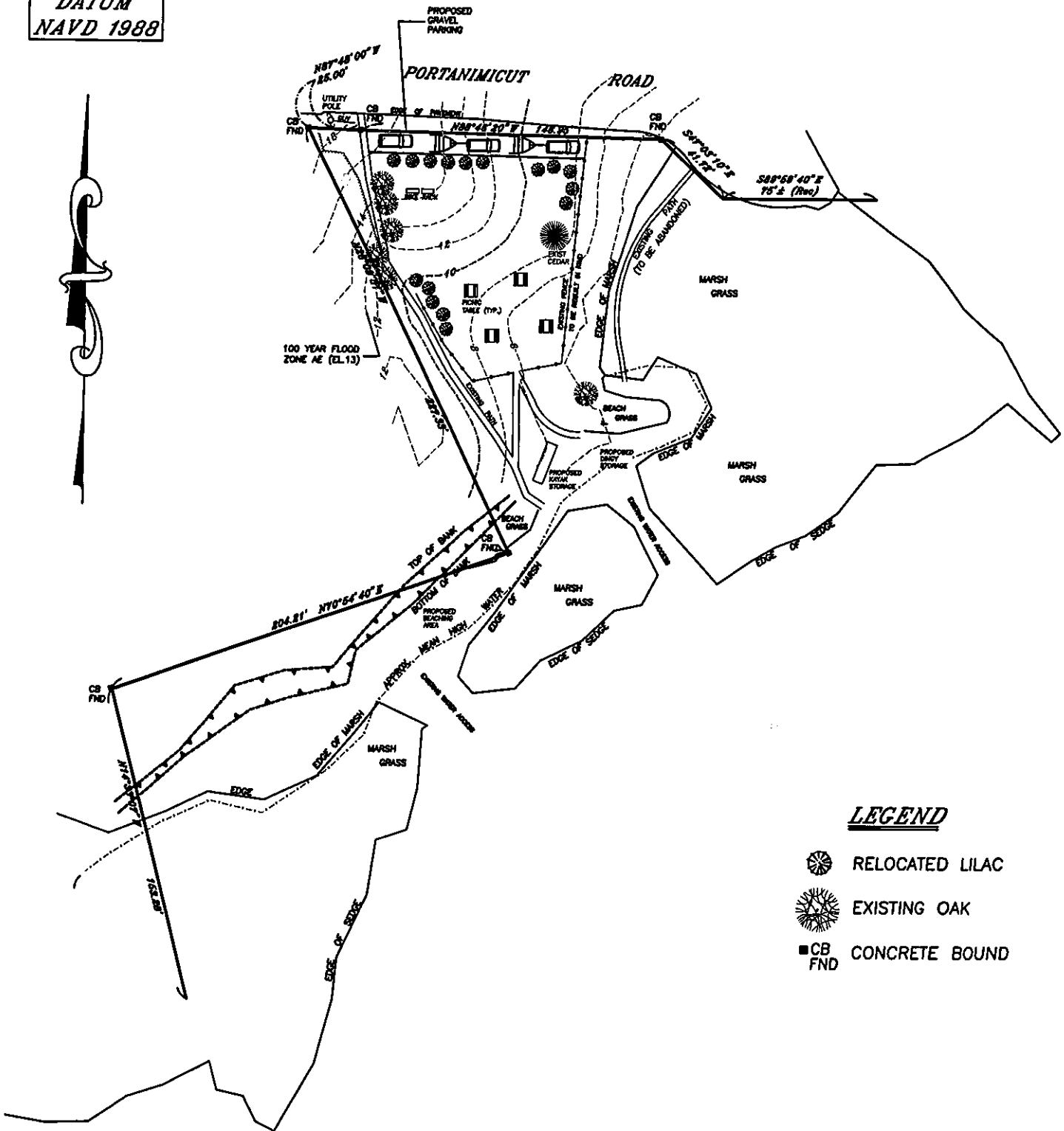
Prepared for: 141 Portanimicut Task Force
Location: 141 Portanimicut Road, Orleans, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Giddiah Hill Rd.
P.O. Box 439
So. Orleans, MA., 02662
Tel. (508) 255-8312
Fax. (508) 240-2306




Scale - N.T.S.
Drawn by RAH
Date - December 19, 2020

Job No. 9450

DATUM
NAVD 1988



LEGEND

-  RELOCATED LILAC
-  EXISTING OAK
-  CONCRETE BOUND

SKETCH PLAN SHOWING POTENTIAL LAND DEVELOPMENT (Option IV)

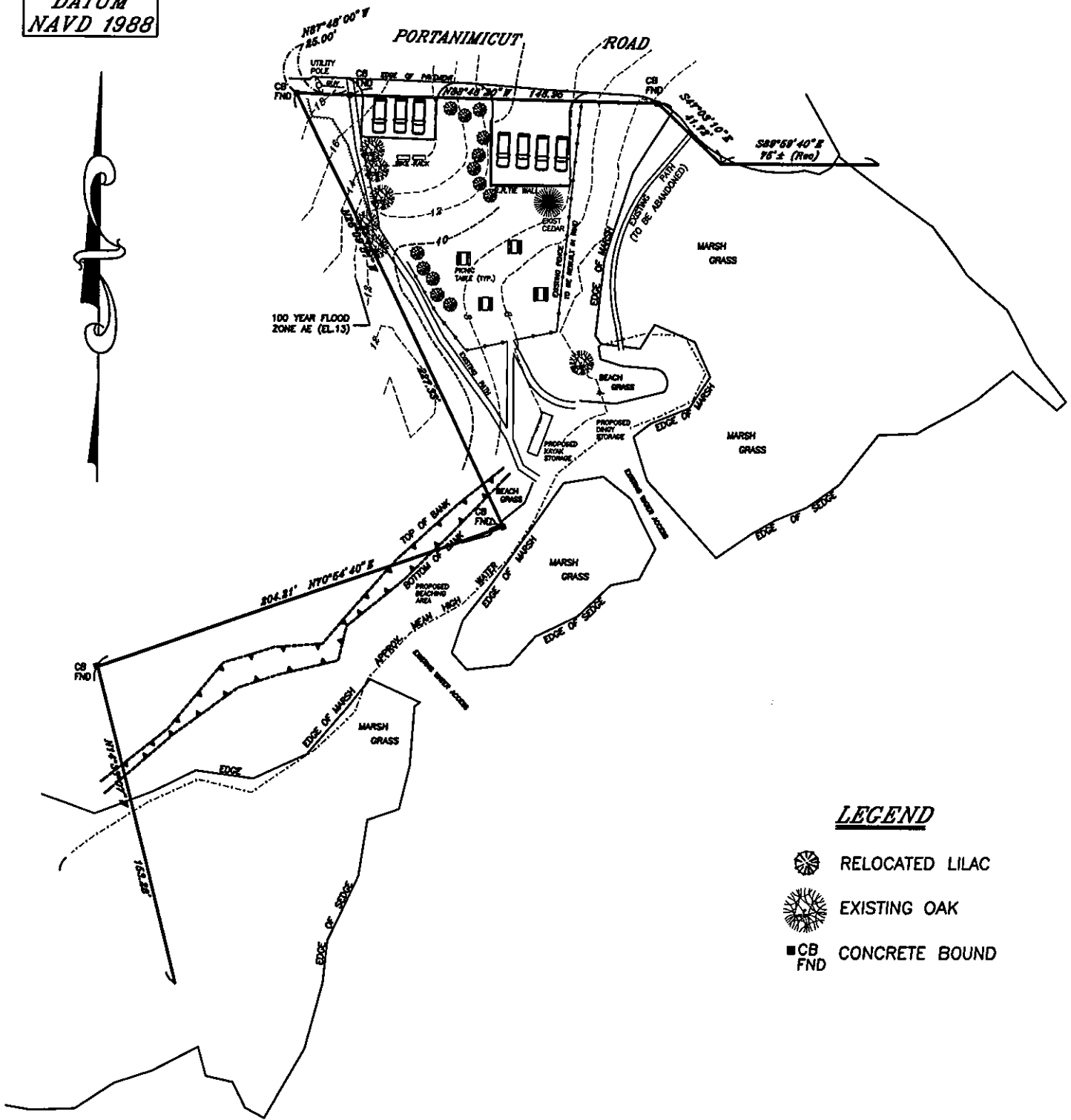
Prepared for: 141 Portanimitcut Task Force
 Location: 141 Portanimitcut Road, Orleans, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
 3 Giddiah Hill Rd.
 P.O. Box 439
 So. Orleans, MA., 02662
 Tel. (508) 255-8312
 Fax. (508) 240-2306




Scale - N.T.S.
 Drawn by RAH
 Date - December 19, 2020

Job No. 9450

DATUM
NAVD 1988



LEGEND

-  RELOCATED LILAC
-  EXISTING OAK
-  CONCRETE BOUND

SKETCH PLAN SHOWING POTENTIAL LAND DEVELOPMENT (Option V)

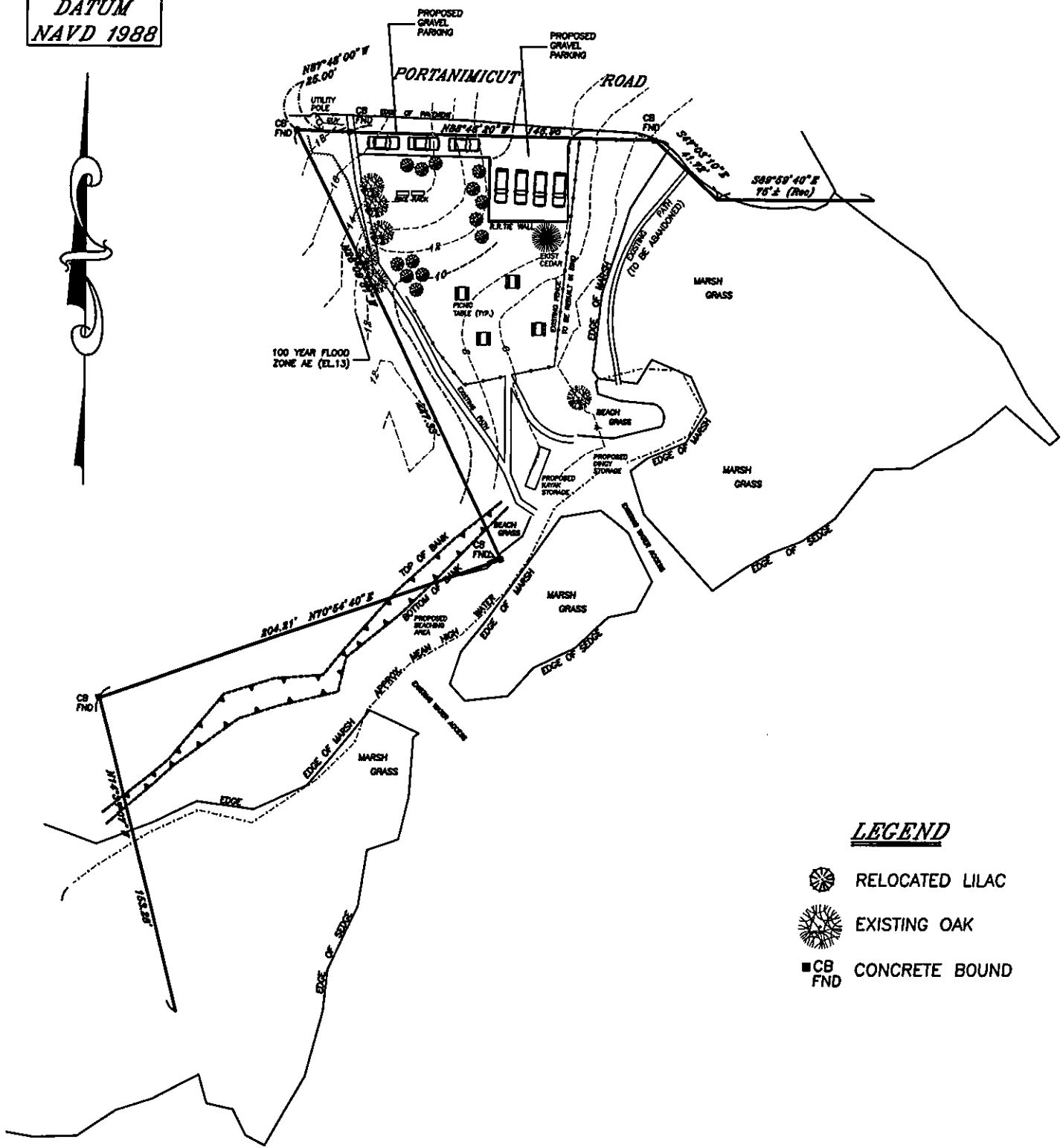
Prepared for: 141 Task Force
Location: 141 Portanimicut Road, Orleans, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Giddiah Hill Rd.
P.O. Box 439
So. Orleans, MA, 02662
Tel. (508) 255-8312
Fax. (508) 240-2306




Scale - N.T.S.
Drawn by RAH
Date - December 19, 2020

Job No. 9450

DATUM
NAVD 1988



LEGEND

-  RELOCATED LILAC
-  EXISTING OAK
-  CONCRETE BOUND

SKETCH PLAN SHOWING POTENTIAL LAND DEVELOPMENT (Option VI)

Prepared for: 141 Portanimitcut Task Force
 Location: 141 Portanimitcut Road, Orleans, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
 3 Giddiah Hill Rd.
 P.O. Box 439
 So. Orleans, MA, 02662
 Tel. (508) 255-8312
 Fax. (508) 240-2306

Scale - N.T.S.
 Drawn by RAH
 Date - December 19, 2020

Job No. 9450

APPENDIX J

Shellfish & Waterways Improvement Advisory Committee Suggestions for Uses at 141 Portanimicut Road

The Shellfish/Waterways Committee originally proposed making the property at 141 Portanimicut Road a "satellite" harbormaster office. Once we were informed about the town counsel legal opinion that the building could not be used for municipal purposes (e.g. offices), the committee discussed the issue again.

A few years ago, the Shellfish/Waterways Committee spent several months reviewing and revising the town's waterways by-laws. A major focus of those discussions was the need for public education about boating and water safety and boat handling. Several of our suggestions for 141 Portanimicut stem from those discussions.

Please note that our meetings include lots of public discussion, and these suggestions include some from the public-at-large.

Our recommendations include maintaining and using the building at its current site. We understand that the town is unlikely to assume the costs and responsibility for maintaining the building, and we propose that a non-profit be formed (a "friends"-type organization) to assume those responsibilities. Some of the committee members would be willing to serve in that capacity.

Boat safety and handling

The building and landing area could be used for small, "hands on" instruction on such topics as required safety equipment for a boat, how to store and put on a personal flotation device (PFD), how to work a hand-held radio, how to use a compass, read a tide chart, etc.

We are aware that there are groups, including the Cape Cod Power and Sail Squadron and the Coast Guard Auxiliary that offers classes on boating safety. [In fact, one of our recent members was a member and instructor for the CGA]. However, these courses cost money, and usually last several weeks. [There are some "one night" seminars, but they are usually offered by the groups in Centerville or Woods Hole, and I can say from personal experience, that there are rarely folks from the Lower or Outer Cape in attendance].

We were thinking of small groups with individual instruction, and oriented not only to boat owners, but also to people who come and rent a boat.

Shellfish/Waterways
141 Portanimiticut
Page 2

For example, several years ago, I attended a class at the Orleans Yacht Club run by the CCP&SS. Rather than just telling people to “keep your PFDs ready and know how to use them”, as most instructors do, they did a demonstration. The instructor called for 6 volunteers, and explained they were on a boat, that it hit a submerged obstruction and started to sink, and they had 2 minutes to put on PFDs and jump overboard. Another person had a watch and called out as each 30 seconds elapsed. Then he pointed to a jumble of PFDs and said “go”.

The confusion that ensued was very enlightening. Each participant did end up selecting a PFD, but they were all tangled up (with the straps); they were all sizes; one participant was 12 years old, and he got an adult size, while the one child’s size was left for a big guy with a football player build! And none of them got the PFDs on before the 2-minute deadline was up.

I think everyone who attended that demonstration properly stores PFDs, has guests try them on and fits them before leaving the dock, and has them in a readily accessible place on the boat for use.

This is the kind of instruction that could be so valuable—and helpful to the Harbormaster Office, whose staff has to go out on rescues in all kinds of weather.

A lot of people don’t know how to anchor a boat, and they could practice right off the dock. Also, a lot of people don’t know how to row a boat; again, there could be individual instruction, especially on windy days. Other safety issues: how to check a gas can (on an outboard), how to vent the top, why not to let the gas go below ¼ tank.

There are more and more people going kayaking, and many of them need help with managing the kayak, but also have little knowledge about the waterways “rules of the road”, how to read the wind (important to get back to the point of departure), etc. Again, there are classes, mostly offered by commercial enterprises, but they are expensive, and too often the safety instruction is minimal.

Other Waterways Issues

The HM staff (or trained volunteers) could offer individual or small group demonstrations on how to inspect moorings. Also, as suggested by the HM,

Shellfish/Waterways
141 Portanimicut
Page 3

the building could be used for a PFD exchange [people would donate outgrown or no longer used PFDs to be inspected and re-used].

In addition to kayak storage rack(s), the building could be used for a library of safety materials, potential paddle routes, and even hot cocoa after a trip!

Shellfishing

Volunteers could give “hands-on” lessons in how to shellfish. The building could house a collection of used shellfish implements (for loan or rent), so that people could “try out” shellfishing without spending a couple of hundred dollars for equipment. Instruction would include how to cull, how to measure and use a gauge, and very important in these times of the heating ocean, safe handling information for raw shellfish.

Similar programs could be established for fin fishing.

There has been quite a bit of interest in having an upweller (shellfish nursery) in Orleans once again, and this site provides for a number of possibilities, including a FLUPSY (floating upweller system on the dock), a covered upweller on the ground, or an upweller in the building [the storage room on the ground floor off the garage would be ideal]. The previous upweller was operated by 60 volunteers under the direction of the Orleans Pond Coalition, with no money spent by the town. We could do something like it again.

Other recreational uses

Suggestions included having amenities on the property such as bike racks, kayak racks (already mentioned), and picnic tables.

When the task force did the site review, it was suggested we erect a “blind” for bird-watching. There could also be a small library in the building so that participants could look up the birds that they viewed. And then they could write down the description and identification in a “bird log” to be kept at the property.

The back deck could be used for star-gazing. It was suggested that perhaps the Cape Cod Astronomy Club might be interested in coordinating this activity.

Other suggestions included using the site for a poetry or nature writing group, arts and crafts, particularly using natural materials, or perhaps for yoga classes.

Research

There already is a proposal to use the site to do research on the salt marsh. The office (middle room upstairs) could be used as the operations site for this research. Later on, some educational materials could be presented for the use of the public.

Another suggestion was to use part of the basement for storage of the town's water quality sampling equipment.

These suggestions came from Shellfish/Waterways Committee members and public comments offered at 2 committee meetings. We strongly believe that the property was purchased by the town for the use of people of the town (including our visitors). We believe there could be more suggestions (including on how to put the plan into place) if there were more opportunities to comment. We strongly support a process in which members of the town (and not just members of the task force or ConsCom) get to have meaningful input into the plan for the use of this treasured property.

Orleans Conservation Trust



To: 141 Portanimitic Road Task Force (via email to John Jannell, Conservation Agent, and Virginia Farber, Task Force Chair)

From: Stephen O'Grady, Director, Orleans Conservation Trust

Date: June 24, 2020

Re: Orleans Conservation Trust input on 141 Portanimitic Road

Dear Task Force Members:

The Orleans Conservation Trust (OCT) owns land on Portanimitic Road and has multiple land interests in the area. OCT also anticipates receiving 119 Portanimitic Road, which Rachia Heyelman, the current owner, has said will be donated to OCT when she passes (in addition to other land she owns). According to Town records, 119 Portanimitic Road abuts 141 Portanimitic Road for 68 feet at the southernmost edge of 141 Portanimitic, though that land is below water at high tide. Additionally, OCT owns a 0.9-acre saltmarsh and beach parcel directly across the tidal creek from the Portanimitic Town Landing and 141 Portanimitic.

OCT has reviewed the charge of the 141 Portanimitic Road Task Force and understands that 141 Portanimitic is under the jurisdiction of the Conservation Commission, as the property was acquired in 2016 using open space funds appropriated through the Community Preservation Act budget. We are supportive of public access in that area, including access to Pleasant Bay, and understand that the abutting Town Landing is heavily used and that additional parking would provide relief. We encourage the Task Force to consider whether adding parking on 141 Portanimitic is feasible. If it can be done within the legal confines of the acquisition, and without excessive damage to the natural resources on the property (i.e. in the upland area around where the building currently sits), OCT would be in favor. Additionally, we hope the Task Force will explore the opportunity to place kayak racks on the property, encouraging responsible access to the bay and keeping kayaks off sensitive marsh habitat where they're sometimes stored.

We appreciate the opportunity to provide input and would welcome future dialogue as the Task Force continues discussions.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen O'Grady", is written over the printed name.

Stephen O'Grady

Director, Orleans Conservation Trust

508-255-0183

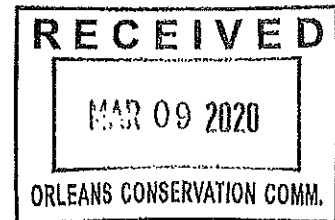
stephen.ogrady@orleansconservationtrust.org

Memo to Conservation Committee Administrator & Members

Administrator: John Janell

Date: March 9, 2020

RE: **141 Task Force Portanimicut**



Although my name was not drawn from the lottery pool to be officially on the 141 Task Force, I am grateful to be given opportunities to participate from the floor. Prior to the first meeting I compiled some detailed photos of the building/grounds area, with some notes, along with a decade of billing records for both water and electric (so that typical 'running costs' could be estimated.) I forwarded this on to John, who I believe forwarded to the committee chair.

At the very first meeting I was a little disconcerted that an opinion was sought from the Task Force board members regarding pro/con the demolition of the building: three members expressed a preference for demolition despite the absence of any sharing of preliminary information/facts such as the 40 year old building already being deemed in good repair. I feel it's not constructive or appropriate to initiate an exploratory task force with a foregone preference for demolition; particularly since there were no positive aspects of potential use brought forth for consideration. Perhaps this was merely 'conversational', but the personal preference was solicited a few times.

141 Portanimicut was purchased with **Orleans Taxpayer funding** in 2016, with the understanding of it becoming a valuable asset for all the residents to enjoy for passive recreation (specifically an asset for education/activities on Pleasant Bay). During the Selectman deliberations on the subject, Atty Ford recommended that one selectman must recuse himself from the voting, although he lived at considerable distance away/ on another street, but within a wide proximity to 141 Portanimicut on the horizon. Following the legal integrity of this protocol, and a desire for clearly defined transparency to all taxpayers, I would respectfully recommend that a consistent protocol for transparency be maintained on this Task Force; i.e. the neighbors directly adjacent to 141 recusing themselves from the 'voting' role as it may pertain to demolition/any potential direct enhancements to their own personal property.

As a side note regarding '**transparency**' of information/process: it discouraged town residents when the 2019 town meeting requested taxpayer funding for a project promoted with multiple benefits to serve locals, but additionally/ in actuality was requesting taxpayer funding to subsidize the purchase of an island home, to become owned/enjoyed by a single individual Orleans resident. Such a flagrant lack of honesty

and complete transparency undermines resident trust in the allocation of taxpayer funding for possibly self-serving goals.

Therefore, I believe it is exceedingly important that all decisions and considerations for 141 Portanimitcut be well thought out for long term viability and inclusiveness of all residents who 'bought' the property. What are the varied potential uses, who might the stakeholders be to appropriately utilize the building and the shore/water access, for 'passive recreation'? (The taxpayers did not purchase the building for \$500,000 so that a few individuals could gain an optimum vista.)

Correlating with 141 future usage, the task force should also maintain an awareness of the exceedingly generous **neighboring 'gift' of 20+ acres to OCT** (with two/possibly three separate direct accesses to the water). From the future viewpoint of recreational residents, Portanimitcut will be offering exceptional and varied outdoor pleasures for the community.

For several years, the **Shellfish/Waterway Committee** (along with a selectman) have been advocating that the proximity of 141 to Little Pleasant Bay aquaculture grants and potential future development (such as upwellers/maintain diversified aquaculture) offers a unique opportunity that no other Orleans location can offer. Plus, the summer satellite activities from the Harbormaster/personnel for education/boating/rescue etc. And last week, I contacted two appropriate **non-profit organizations** that may be interested in utilizing the building asset of 141.

Thus, I am encouraging the 141 Task Force and the Conservation Committee to provide generous time and an 'attitude of inclusiveness' to the residents and grantholders to create a management guideline that serves Orleans for all future potentials, rather than a short-sighted 'reaction' serving a small handful, with the funds from every single taxpayer. I hope you all will consider an 'interim management plan' of 1- 3 years, before a final plan is established for the long-term future.

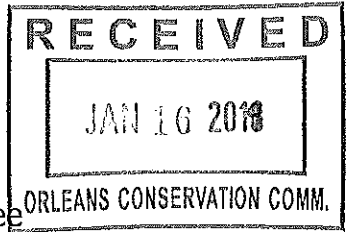
Respectfully submitted,

ginia pati

giniapati@gmail.com

203-536-7797

(attendee for many years to OWQAP, the Lonnie's Pond Aquaculture Project, Shellfish/Waterway Committee)



To: John Jannell, Conservation Agent
Members of the Conservation Commission

From: Shellfish and Waterways Improvement Advisory Committee

Re: Property at 141 Portanimicut Road

Date: January 8, 2019

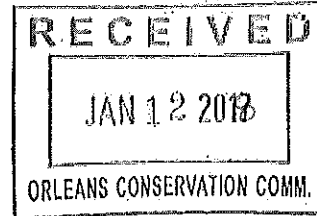
We, the undersigned members of the Orleans Shellfish & Waterways Improvement Advisory Committee ("Shellfish/Waterways") are writing to express our continued interest in the property at 141 Portanimicut Road, Orleans, which has most recently housed Department of Natural Resources (harbormaster/shellfish constable) offices.

Although we have not seen the legal opinion, we understand that it is the opinion of Town Counsel Michael D. Ford that the property was conveyed to the town for open space and recreation purposes pursuant to the provisions of the Community Preservation Act, and is therefore under the jurisdiction of the Orleans Conservation Commission.

Last spring, we expressed our interest, and requested that at least two committee members be appointed to any task force or working group set up to determine the future uses of the property. We reiterate our request, and state that we are willing and eager to participate in the deliberations in any manner that the Conservation Commission deems appropriate.

Please contact our committee for names, interests, and qualifications of our members. Thank you for your assistance. We look forward to working with you to plan the best uses of this property for the citizens of Orleans.

December 18, 2017



John Jannell
Conservation Agent
Orleans Town Hall
19 School Road
Orleans, Massachusetts 02653

Dear Mr. Jannell:

We're writing in response to your request to Judy Scanlon, Chairperson of the Shellfish and Waterways Improvement Advisory Committee [hereinafter "Shellfish/Waterways Committee"] for the committee's recommendations for future uses of the property located at 141 Portanimitic Road, South Orleans. The building currently houses the Natural Resources/ Harbormaster/Shellfish offices [hereinafter "HMO"] on a temporary basis.

The Shellfish/Waterways Committee met on November 14, 2017 and had a robust discussion on this issue. At the end of the discussion a motion was made to recommend to the Conservation Commission and to the Board of Selectmen that the HMO remain in the building at the current location on a permanent basis. The vote was unanimous (8-0-0).

The principle reasons in support of our recommendation are as follows:

1. The harbormaster requires an office on the water. We understand that there is a Department of Natural Resources office to be built as part of the Department of Public Works new complex, and that the space will be needed for storage of boats, buoys, and other equipment, and perhaps administrative functions. However, it is crucial for the HMO to be on the water in case of emergencies on the water.

Although Pleasant Bay is an Area of Critical Environmental Concern, and there is a moratorium on new docks, this particular location in the bay is not included in the moratorium. There is already a town landing at the site; the water is sufficiently deep for the harbormaster boats; and the location provides easy and ready access to Pleasant Bay.

2. This location is centrally situated on Pleasant Bay (in Orleans) and is widely accessible. The location drastically reduces launch time for responding to emergency calls, as the need to traverse the whole length of The River—much of it at "no wake" speed—is eliminated. In addition, the presence of the HMO would provide a law enforcement deterrent.

Letter to John Jannell

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Pleasant Bay, due to its proximity to the ever-changing barrier beach system, has a lot of shallows and areas where the conditions can be treacherous for boaters. And there are a lot of more boaters in Pleasant Bay, especially after the "April Fool's Cut" opened up Aunt Lydia's Cove in Chatham to Nantucket Sound. And far too many of those boaters do not have the experience, boat-handling skills, or knowledge of the "rules of the road", tides, currents, etc. that are required for safe operation of boats.

It is noted that the nearest Coast Guard boats are in Chatham: there are two larger boats in Chatham Harbor, which are deep draft, and designed for work on the open ocean, and thus not practical for getting over the shallow areas at the 2007 breach into the Harwich and Chatham portions of Pleasant Bay.

Last year the Coast Guard purchased a smaller inflatable boat to get over the shoals, but it is docked at Outermost Harbor Marine in Chatham, which is quite a distance from Orleans.

In the event of an emergency, the duty to rescue would fall on the Orleans Harbormaster Department.

3. The current HMO location at 141 Portaminicut Road facilitates easy access to local fishermen and clambers. The shellfish constable or his assistants can just step out the door to talk to shellfishermen coming in from their grants, fishermen launching to go out, or coming back to shore. Ready access is important so the constable can learn about what is going on out on the water. The office provides a welcoming place for a fisherman or any members of the public to step inside for a brief talk.

There are several commercial fishermen on the Shellfish/Waterways Committee, and they all were of the opinion that fishermen would not go all the way to an administrative office in the industrial park to express concerns or share information with the harbormaster/shellfish constable. They were adamant that the harbormaster/shellfish constable needs to go to them.

4. The building is quite suitable for current staff, which includes the Natural Resources Manager/Harbormaster/Shellfish Constable, two Assistant Harbormasters/Deputy Shellfish Constables, and a Natural Resources Officer. There is the main office for the harbormaster/shellfish constable staff. It has a kitchenette and a wood stove.

Letter to John Jannell
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The natural resources officer (shorebird monitor) also has an office, and there is a small conference room, as well as a bathroom. Downstairs there is a garage, and a room for storage (or whatever).

5. The committee also discussed opportunities for increased shellfish propagation, especially in view of the town's plan to grow shellfish to assist in nitrogen mitigation in our estuaries. If there were a dock, portable floating upweller systems (FLUPSYs) could be easily installed. Upwellers would help the town save money because the department could purchase smaller seed at the beginning of the season, and raise it to a larger size in-house.

The room behind the garage could be used for a land-based upweller, which would utilize pumps and be able to operate longer during the season. These are just a couple of possibilities that were mentioned.

Committee members are also concerned about access for members of the public, and thought that some adjustments could be made to increase parking at the site. For example, the split rail fence and lilac bush could be removed and a few spaces put there.

Committee members were very interested in having at least two representatives from the committee serve on the Conservation Commission task force to be set up to develop a management plan for the 141 Portaminicut Road property. And we are willing to further discuss any and all issues, and to make more specific recommendations if asked.

Thank you for your consideration.

Sincerely,

The Shellfish and Waterways Improvement Advisory Committee

Judy Scanlon, Chairperson *JAS*
David Slack, Vice-Chairperson *DS*
Suzanne Phillips *SP*
David Quincy *DQ*
Craig Poosilkian *C.P.*
Gerry Burge *GB*
John Quigley *JQ*
Nathan Davis *ND*

DRAFT

MEMORANDUM

To: Orleans Conservation Commission
From: Mon Cochran, Chair, Orleans Open Space Committee
Date: February 20, 2018
Subj: 141 Portanimicut Road Conservation Property

The Open Space Committee wishes to underscore the fact that the property at 141 Portanimicut Road was purchased with public funds designated for the acquisition of open space. The Open Space Committee supported the use of open space funds for this purpose, despite the presence of a building on said property, because town ownership would insure access to the mooring field that lies adjacent to the property in Pleasant Bay, and thus to the 'open space' of Pleasant Bay.

Because access to the beach and the Bay was the primary justification for using open space funds for this purchase, the Open Space Committee feels strongly that every effort should be made by the Town to provide that access commensurate with good conservation practice, and to protect the conservation value of the lot as a whole.

The Open Space Committee is not apposed to use of the existing building as an office for the town harbormaster, with storage in the building for related gear. However, open space conservation should be the primary priority for the undeveloped portion of the lot.

There have been complaints by Portanimicut town landing neighbors about what in their view has been poor upkeep of the landing. The Open Space Committee hopes that the presence of the Harbormaster at 141 Portanimicut Road will insure the necessary oversight and upkeep.

141 Portanimicut Road Property - Conservation Commission Hearing (2/20/2018 at 6 p.m.)

this property, under ConsCom care, is significant in that it sits right on Little Pleasant Bay, has beautiful beachfront, a healthy marsh system and is across from other Town and Orleans Conservation Trust protected lands

suggestions for ConsCom to consider:

- provide neighborhood swimming beach access (with care to protect the marsh) and minimize vehicle traffic congestion
- continue harbormaster use of building (if it works for him and appears beneficial for the Town) in support of public recreation
- this former house is not that old (built in 1979) and it would be a shame to tear it down

this property was purchased by the Town for \$500,000 with Community Preservation Funds, as part of the Special Town Meeting (Article 3) held on May 9, 2016, to use the property for open space and recreation purposes, I would think the above suggested uses would be consistent with the Town Meeting Article.

Thanks for holding this hearing, getting public input and I look forward to supporting your efforts.

Respectfully submitted,
Kevin Galligan
22 Great Oak Road, Orleans

John Jannell

From: Morrison, Sidonie A. <Sidonie.Morrison@stonybrookmedicine.edu>
Sent: Wednesday, February 14, 2018 10:26 AM
To: John Jannell
Cc: Morrison, Sidonie A.
Subject: Meeting 141 Portanimicut Road February 20th

Advance Comments concerning the fate of #141 Portanimicut Rd
Respectfully submitted by Roy Steigbigel & Sidonie Morrison, owners at #s 136 and 136A.

Concerning actions and planning for this recently acquired property:

We would recommend the building be removed. We feel it has no architectural merit, which runs counter to the neighborhood, and has been poorly maintained. It would if kept require major improvements of the building and the site, for a purpose that is unclear and remote from the rest of the buildings the town administers.

Removing the building opens up coastal wetlands for expansion, as is occurring across the Paw Wah creek and bordering the Conservation Area. Land masses depend for their protection on wetlands that surround them, not only for biological health (water filtration, maintaining an intact food chain) but also serving as a physical barrier against storms and resulting tidal flooding, wind damage and erosion.

If increases in the intensity of storms around Little Pleasant Bay are to be expected, we will depend increasingly on preservation of this barrier at the eastern end of Portanimicut Road.

Much more may be learned from how the wetlands on the other side of the creek behave. Modified from www.ortleamsconservationtrust.org, "[This property features surrounding] marshland dominated by a variety of Spartina grasses which have... important roles in the maintenance of habitat diversity."

These remarks are written 2/14/2018. The writers may be contacted by email at roy.steigbigel@stonybrook.edu and Sidonie.morrison@stonybrook.edu.

Or by telephone at 631-584-7040

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