

# SUBDIVISION PERMIT APPLICATION

Permit # \_\_\_\_\_

Town of Marlboro, Vermont

PO Box E Marlboro, VT 05344 802-254-2181

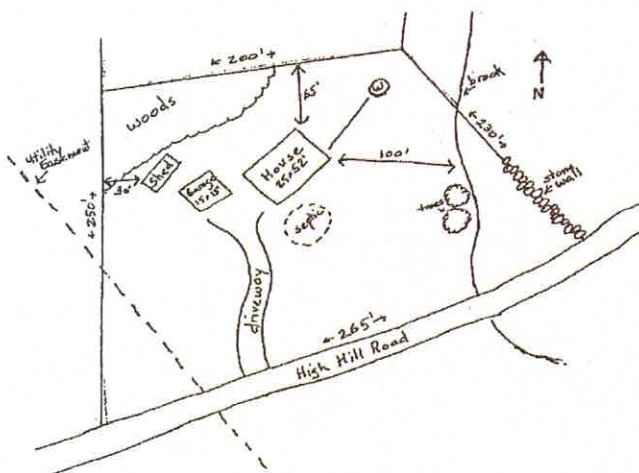
Fax 802-257-2447

[marlborozoningoffice@gmail.com](mailto:marlborozoningoffice@gmail.com)

## General Information for Permit Applicants

- An application can not be processed until it is complete and accurate, and the appropriate fees have been paid.
- A complete application requires the signature of the owner(s) of record of the property **and** authorization to represent owner, if the applicant is not the owner of record.
- Any additional pages or attachments must be signed and dated by the applicant, and must include the tax map number of the parcel being developed.
- Fees must be submitted with the application. See permit fee schedule for amounts due.
- All applications for subdivision permits are acted upon by the Development Review Board (DRB). The Development Review Board (DRB) may require site visits during the processing of this application.
- The Zoning Administrator has 30 days to act after the receipt of a **complete** application [24 V.S.A. 4448(d)]. **Plan your projects with this time frame in mind.** No permitted development may be undertaken until the appeal period (15 days following the issuance of a zoning permit) has passed.
- Permit denials may be appealed to the Vermont Environmental Court. (See Section 4.6 of subdivision Regulations.)

### EXAMPLE



Marlboro, Vermont  
Town Clerk's Office  
Received & Recorded

Date \_\_\_\_\_

Book \_\_\_\_\_ Page \_\_\_\_\_

Attest: \_\_\_\_\_

Town Clerk

**Complete all information in ink.** If an item does not apply to you, please write in "n/a".

Owner(s) <u>JOE GORBECKI</u>	Applicant (if different) <u>TRINITY ENGINEERING</u>
Mail Address <u>63 Munger Lane</u> <u>Bethlehem, CT 06751</u>	Mail Address <u>26 UNION STREET, SUITE 1D</u> <u>NORTH ADAMS, MA 01247</u>
Phone <u>203 490 9933</u>	Phone <u>413 441 9724</u>
Email <u>jgorbecki@gmail.com</u>	Email <u>jdupras@trinityeng.com</u>
Address _____ House # _____ Road _____	Complete for all <b>subdivisions</b> of land:
Tax Map # <u>02</u> - <u>00</u> - <u>55.11</u>	Number of lots resulting: _____
Zone <u>RUR</u> # Acres <u>14.60 A-</u>	Lots on Town Road _____
Book <u>65</u> Pages <u>160 - 163</u>	Frontage on Town Road _____
	Lots on Private Right-of-Way _____
	Width of Right-of-Way _____
<b>Type of Project Proposed:</b> <input checked="" type="checkbox"/> Boundary Line Adjustment <input type="checkbox"/> Minor Subdivision (includes Division of Land) <input type="checkbox"/> Major Subdivision	

Explain proposal. (Attach additional sheets if needed. **Each** additional sheet must include the tax map number in the upper right corner of pages.)

Boundary Line Adjustment to lots 02-00-55.13 and Lot 02-00-55.11,  
by merging lot 02-00-53.11 into the two lots. See  
attach narrative and plans.

Submit a project sketch, locating the project area. The sketch plan must be **in ink** and must include:

☒ All boundaries and area of all contiguous land belonging to the owner of record, including land separated by a public right-of-way.

☒ General indication of the boundaries of the following features: wetlands and wet areas; flood hazard areas; slopes in excess of 15%; surface waters and associated buffer areas; prime and statewide agricultural soils and other open farmland; scenic features identified in the Town Plan; and prominent knolls and ridgelines.

☒ Proposed layout of property lines, existing and proposed restrictions on land, driveways, building envelopes, utilities including, but not limited to, water supply and septic disposal facilities, site improvements, proposed open space, land to be held in common and/or other features to be preserved.

☒ True North arrow and scale.

**Complete all information in ink.** If an item does not apply to you, please write in "n/a".

Owner(s) <u>ERIKA FINUCANE</u> <u>SCOTT FINUCANE</u>		Applicant (if different) <u>TRINITY ENGINEERING</u>	
Mail Address <u>566 MAPLE ST.</u> <u>LITCHFIELD, CT 06759</u>		Mail Address <u>26 UNION ST., SUITE 1D</u> <u>NORTH ADAMS, MA 01247</u>	
Phone <u>SCOTT 203 948 3719</u> <u>ERIKA 203 417 1622</u>		Phone <u>413 441 9724</u>	
Email <u>scott 7775 @ icloud.com</u>		Email <u>jdupras@trinityeng.com</u>	
Address _____ House #                      Road Tax Map # <u>02 - 00 - 55.13</u> Zone <u>RVR</u> # Acres <u>12.8 Ac</u> Book <u>65</u> Page <u>175 - 176</u>		Complete for all <b>subdivisions</b> of land: Number of lots resulting: _____ Lots on Town Road _____ Frontage on Town Road _____ Lots on Private Right-of-Way _____ Width of Right-of-Way _____	
<b>Type of Project Proposed:</b> <input checked="" type="checkbox"/> Boundary Line Adjustment <input type="checkbox"/> Minor Subdivision (includes Division of Land) <input type="checkbox"/> Major Subdivision			

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☒ Proposed layout of property lines, existing and proposed restrictions on land, driveways, building envelopes, utilities including, but not limited to, water supply and septic disposal facilities, site improvements, proposed open space, land to be held in common and/or other features to be preserved.

☒ True North arrow and scale.

**NOTE:** THIS PERMIT IS **VOID** IN THE EVENT OF MISREPRESENTATION. PERMITS EXPIRE ONE YEAR FROM THE EFFECTIVE DATE IF THE PROJECT HAS NOT BEEN STARTED, AND TWO YEARS FROM THE EFFECTIVE DATE IF THE PROJECT HAS NOT BEEN SUBSTANTIALLY COMPLETED.

Date Approved:

Date Posted:

Date Valid:

TAX MAP NUMBER 02 - 00 - 55.13

**Authorization of Owner(s) of Record:**

I (We) certify that all information on this document is true and accurate. I (We) authorize the Zoning Administrator to enter the property.

Signature(s) Scott FINUCANE

Date

1/25/2023

**Certification of Applicant (if different):**

I hereby certify that all information on this document is true and accurate, and that I am acting on behalf of the owner of record.

Signature Scott FINUCANE

Date

1/25/2023

**MARLBORO OFFICIAL USE ONLY**

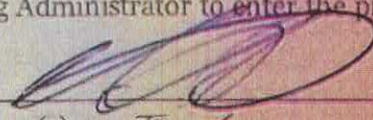
Permit # \_\_\_\_\_

Zoning Administrator	Development Review Board
Date received:	Date DRB determines application complete:
Date accepted as complete:	Date of hearing:
Fee received: \$                      Date:	
ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> REFERRED TO DRB	ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED
Date of action:	Date of action:
Effective date:	Date decision issued:
Expiration date:	
Inspection date:	
Notes & Conditions:	Conditions/Findings Letter: (within 45 days of hearing adjournment)
Signature:	Signature:

TAX MAP NUMBER 02 - 00 - 53.11

**Authorization of Owner(s) of Record:**

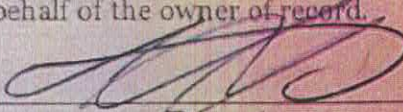
I (We) certify that all information on this document is true and accurate. I (We) authorize the Zoning Administrator to enter the property.

  
Signature(s) Joe GORBETTI

1/26/23  
Date

**Certification of Applicant (if different):**

I hereby certify that all information on this document is true and accurate, and that I am acting on behalf of the owner of record.

  
Signature Joe GORBETTI

1/26/23  
Date

**MARLBORO OFFICIAL USE ONLY**


Permit # \_\_\_\_\_

Zoning Administrator	Development Review Board
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<b>ACTION:</b> <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> REFERRED TO DRB	<b>ACTION:</b> <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED
Date of action:	Date of action:
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Expiration date:	
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Notes & Conditions:	Conditions/Findings Letter: (within 45 days of hearing adjournment)
Signature:	Signature:

TAX MAP NUMBER 02 - 00 - 55.11

**Authorization of Owner(s) of Record:**

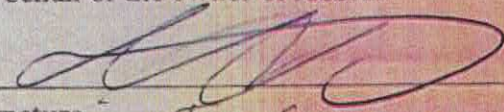
I (We) certify that all information on this document is true and accurate. I (We) authorize the Zoning Administrator to enter the property.

  
Signature(s) Joe Gorbecki

1/26/23  
Date

**Certification of Applicant (if different):**

I hereby certify that all information on this document is true and accurate, and that I am acting on behalf of the owner of record.

  
Signature Joe Gorbecki

1/26/23  
Date

**MARLBORO OFFICIAL USE ONLY**

Permit # \_\_\_\_\_

Zoning Administrator	Development Review Board
Date received:	Date DRB determines application complete:
Date accepted as complete:	Date of hearing:
Fee received: \$ _____ Date: _____	
ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> REFERRED TO DRB	ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED
Date of action:	Date of action:
Effective date:	Date decision issued:
Expiration date:	
Inspection date:	
Notes & Conditions:	Conditions/Findings Letter (within 45 days of hearing adjournment)
Signature:	Signature:

**Project: Marlboro Heights, Lot 1 & 3 Boundary Line Adjustment**

Application: Preliminary Plan (Sketch Plan) Review

Clients: Joe Gorbecki and Scott Finucane

Date: 1/27/2023

**Scope of Application to DRB:**

The scope of this application is a Preliminary/Sketch Plan review for a Subdivision Permit by Boundary Line Adjustment (BLA) to Lot 1 and Lot 3. Information is provided in this application to allow the DRB to review the BLA and provide comment and input to the applicant for final site design and final applications to the DRB.

This Preliminary/Sketch Plan narrative includes the following attachments:

- Subdivision Permit Application & Fee
- Sheet C-1, Proposed Boundary Line Adjustment Plan Dated 1/27/2023
- Sheet C-2, Existing Conditions Site Plan Dated 1/27/2023
- Sheet C-3, Proposed Conditions Site Plan Dated 1/27/2023
- Sheet C-4, Existing and Proposed Driveway Profiles Dated 1/27/2023
- Preliminary Plot Plan, Joyce Land Surveying Dated 1/27/2023
- Preliminary 25 Year Stormwater Calculations
- Deeds for Gorbecki, Finucane and Road Maintenance Agreement

The future applications to the DRB will include a Zoning Permit application and Final Plan Approval.

The final application is anticipated to include the following attachments:

- Zoning Permit Application & Fee Dated
- Sheet C-1, Final Proposed Boundary Line Adjustment Plan Dated
- Sheet C-2, Final Existing Conditions Site Plan Dated
- Sheet C-3, Final Proposed Conditions Site Plan Dated
- Sheet C-4, Final Existing and Proposed Driveway Profiles Dated
- Final Plot Plan, Joyce Land Surveying Dated
- Final Environmental Consultant Report Dated
- State Wastewater Permit Amendments Dated
- State Boundary Line Adjustment Approval Dated
- State Operational Stormwater Permit Dated
- State Construction General Permit Dated
- Final 25 Year Stormwater Calculations Dated

**Project Background:**

The Marlboro Heights subdivision was originally permitted as a 3 lot subdivision by the previous owner, John McKay in 2015 by the Marlboro Development Review Board (DRB). State subdivision and wastewater permits have been obtained through VTDEC in the WW-2-2437 line of permits, for the original 3 lot subdivision, amendments to the original permit and for a boundary line adjustment. Original engineering and surveying was performed by Bell Engineering who is no longer retained by the Clients.

Lots 1-3 were subsequently sold to others by McKay as follows:

Lot 1 (02-00-55.11): Scott and Erika Finucane

Lot 2 (02-00-55.12): Doug Hollenbeck

Lot 3 (02-00-55.13): Joe Gorbecki

After the sale of the lots, the new owners became aware that since Lots 1-3 are part of a 'Common Plan of Development' additional state permitting relative to a Construction General Permit and an Operational Stormwater Permit is required for the subdivision.

Joe Gorbecki subsequently purchased an additional 63.71 acre parcel of land from McKay, the so called 'Parcel 2' lot (02-00-53.11). Please note, on previous maps this same lot appears as 'Parcel 3', Parcel 2 is used by reference to coincide with the Joyce plan and deed references.

Joe Gorbecki (Lot 1) and Scott Finucane (Lot 3) had Bell attempted to permit a Boundary Line Adjustment through the Marlboro DRB in 2020 but the application did not proceed beyond the first review by the Marlboro DRB. This 2020 application is now considered null and void.

Trinity Engineering has been retained to prepare the designs and permit applications for the following:

- Marlboro Subdivision (Boundary Line Adjustments) and Zoning Applications for Lot 1 and Lot 3,
- State Wastewater (WW) permit amendments and Boundary Line Adjustment (BLA) amendments for Lot 1 and Lot 3,
- Operational Stormwater Permit 3-9050 (Op SW) for Lot 1 and Lot 3. Trinity has had conversations with the owner of Lot 2, Doug Hollenbeck but as of yet Trinity has not been retained by Hollenbeck and Lot 2 will not be included in the application to the state unless and until Trinity is retained by the owner of Lot 2 to do so.
- Construction General Permit (CGP) for Lot 1 and Lot 3. Trinity has had conversations with the owner of Lot 2, Doug Hollenbeck but as of yet Trinity has not been retained by Hollenbeck and Lot 2 will not be included in the application to the state unless and until Trinity is retained by the owner of Lot 2 to do so.

In addition, Trinity will provide direction and receive design support from the following subconsultants, which have been retained by the Clients:

- Ben Joyce, Joyce Land Surveying, for Professional Land Surveying and Plot Plan preparation,
- James McClammer, Connecticut Valley Environmental Services, for Environmental Consulting Services relative to Section 354 of Marlboro Zoning Regulations.
- Larry Slason, Salmon and Nostrand, for legal representation and deed preparation.

### **Subdivision Regulations (March 4, 2010) Review:**

The following discussion below summarizes the design approach to meeting Article III of the Subdivision Regulations, dated March 4, 2010. Please note, that the original subdivision of Lots 1, 2 and 3 was approved under the same Subdivision Regulations.

### **Article III. Design Development Standards and Required Improvements for Subdivision of Land**

#### **Section 3.1 Evaluation of Application Standards**

Trinity has provided the required information below in order for the Marlboro DRB to review the proposed Boundary Line Adjustments to the existing approved 3 lot subdivision.

#### **Section 3.2 General Standards**

**A. Character of the Land:** The proposed Boundary Line Adjustment (BLA) to the existing subdivision is very similar to the original 3 lot subdivision that was approved by the Marlboro DRB. Lot 3 is proposed to be enlarged by 22 acres by a BLA. The proposed house site is located approximately 120' south of where it was originally permitted. The proposed barn on Lot 3 is located within the building envelope of the originally approved house location. The existing well and septic areas on Lot 3 will remain as permitted.

Lot 1 will also be enlarged by 41.71 acres by a BLA to merge the remaining lands of the 63.71 acre lot (currently Town Parcel 02-00-53.11). The building envelope for house on Lot 1 remains as originally permitted. The owner of Lot 1 is proposing an Accessory Dwelling Unit (ADU) on the lot. The ADU proposed will be a garage with an apartment on the second floor. The building envelope for Lot 3 has been modified to reflect the proposed position of the house on Lot 3.

**B. Conformance with the Town Plan and Other Regulations:** The proposed subdivision is designed to be in accordance with the Town Plan and the Zoning By Law. The proposed subdivision maintains conformity with the originally approved subdivision to the greatest extent possible. The original subdivision was approved under the existing Subdivision Regulations but was approved under the previous Zoning Regulations. Refer to the section below for a more detailed discussion of how the proposed project complies with the Zoning Regulations.

#### **C. Lot Layout:**

1. **Lot Shape:** The lot shape for Lot 1 and Lot 3 will allow for zoning regulations to be met. The U shaped created by Lot 1 is a function of the shape of the existing 63.71 acre lot, which has frontage on Higley Hill Road.
2. **Street Access:** Street access will be in the same location as previously approved by the DRB, with one common driveway serving all three lots.
3. **Side Lots:** The proposed lot shapes do not create side lots.

4. (There is no 4 in the Subdivision Regulations)
  5. **Corner Lots:** The proposed lot shapes do not create corner lots.
  6. **Lot Size and Density:** The lot sizes of Lots 1 and 3 are increased by virtue of the proposed BLAs, thus reducing housing density. Additionally, the separate 63.71 acre lot is eliminated, which reduces the potential for an additional future house in the Wildlife Overlay District.
  7. **Energy Conservation:** Lot 1 is currently proposed to be designed as an off grid house. The house and ADU on Lot 3 can readily make use of solar energy if desired given its orientation and location on the landscape, but is intended to be connected to the grid by aerial power lines along the existing driveway.
- D. Monuments and Lot Corners:** The clients have retained Ben Joyce, PLS to set all final property line corners and update the deeds once the proposed BLA is approved.
- E. Establishment of Building Envelopes:** Please refer to Sheet C-2, Existing Conditions Site Plan for the existing approved building envelopes, and refer to Sheet C-3, Proposed Conditions Site Plan for the proposed building envelopes.
- F. Landscaping and Screening:** Sheet C-3, Proposed Conditions Site Plan shows the proposed ground cover and clearing limits. The proposed wooded and vegetated areas will provide for screening, undisturbed vegetated buffers to protect water quality and natural features and to provide protection of critical wildlife habitat and corridors.
- G. Energy Conservation:** The proposed BLA is in keeping with the original design approved by the DRB with respect to limiting the area of roadways. Access is provided by common driveways, water and wastewater systems are provided by on site wastewater disposal system and drilled wells. House locations are in essentially the same position on the landscape as originally permitted.
- H. Disclosure of Subsequent Development Plans:** There are no plans on the part of the Lot 1 and Lot 3 owners to do further development other than as may be required to comply with the future stormwater permit and subdivision and zoning permits. This is not to say that the owner of Lot 2 is planning any work, but rather that Trinity is not engaged with the Lot 2 owner for any other permits.
- I. District Settlement Patterns:** The proposed BLA is very similar to the original approved 3 lot subdivision with respect to settlement patterns.

### Section 3.3 Protection of Natural & Cultural Resources

- A. Primary Conservation Resources:** The subdivision boundaries, lot layouts and building envelopes have been located and configured to avoid any adverse impact to Primary Conservation Resources (PCR). The PCR includes wetlands, flood hazard areas, steep slopes in excess of 25%, surface waters and associated buffer areas. Please refer to Sheet C-2 Existing Conditions Site Plan and Sheet C-3 Proposed Conditions Site Plan.

Methods specified in the Subdivision Regulations to avoid adverse impacts include, but may not be limited to the following:

1. Building envelopes shall be located and sized to exclude these features.

For Lot 1, the existing building envelope that was previously approved remains the same for the house. A proposed building envelope is shown for the proposed ADU (garage and apartment), that is entirely outside of the PCR. The building envelope on Lot 3 has moved approximately 120' south from the previously approved location building location. The proposed barn on Lot 3 will be located within the originally approved building envelope. The proposed driveway extension and building envelope are result in less impact than the previously approved driveway and house location. Please refer to Sheet C-3, Proposed Conditions Site Plan.

2. Undisturbed buffer areas sufficient in width to protect the identified feature(s) shall be designated.

All areas not specifically identified as within clearing limits are intended to be left as undisturbed buffer areas.

3. Identified features and adjacent buffer lands should be designated as open space.

All areas not specifically identified as within clearing limits are intended to be left as undisturbed buffer areas and open space.

**B. Secondary Conservation Resources:** The subdivision boundaries, lot layouts and building envelopes have been located and configured to minimize any adverse impact to Secondary Conservation Resources (SCR). The SCR includes slopes between 15% and 25%, critical wildlife habitat, scenic features, historic spots, prominent knolls and ridgelines. Please refer to Sheet C-2 Existing Conditions Site Plan and Sheet C-3 Proposed Conditions Site Plan.

Methods specified in the Subdivision Regulations to avoid adverse impacts include, but may not be limited to the following:

1. Building sites shall be located to avoid and/or exclude these features. In the event that no other land is practical for development, the building sites and subsequent development shall be designed to encroach upon the identified feature to the minimum extent feasible.

For Lot 1, the existing building envelope that was previously approved remains the same. A proposed building envelope is shown for the proposed ADU (garage and apartment), that is entirely outside of the PCR. The building envelope for the house on Lot 3 has moved approximately 120' south from the previously approved location building location. The proposed barn on Lot 3 will be located within the originally approved building envelope. The proposed driveway extension and building envelope are designed to avoid adverse impacts. Please refer to Sheet C-3, Proposed Conditions Site Plan.

2. Subdivider may be required to develop and maintain management plans and/or establish appropriate buffers to protect significant wildlife habitat.

All areas not specifically identified as within clearing limits are intended to be left as undisturbed buffer areas.

3. Roads, driveways and utilities shall be designed to avoid and/or prevent the fragmentation of identified features and minimize adverse visual impacts to the extent feasible.

The proposed driveways and utilities are design largely as was approved in the original subdivision plan in 2015. The driveway on Lot 1 was changed slightly to keep the driveway on Lot 1 on the lot to the greatest extent possible. The driveway on Lot 3 is in essentially the same location where it crosses Lot 2 but is extended to reach the proposed house location on Lot 3.

4. Identified features should be included in the designated open space.

All areas not specifically identified as within clearing limits are intended to be left as undisturbed buffer areas and open space.

**C. Farm Land:** There were no Prime agricultural Soils or open farm fields within the boundaries of the existing Lots 1, 2 or 3 and none on the 63.71 acre parcel.

**Section 3.4 Open Space & Common Land:** The proposed BLA varies only slightly in terms of house locations, which has very little impact on the open space of the lots. However, the BLA and merging of the 63.71 acre lot into Lots 1 and 3 serves to eliminate the future possibility of further development on this 63.71 acre lot since it is essentially eliminated by the BLA, which increases open space for recreation and serves to preserve Primary and Secondary Conservation Resources on the subdivision. There is no shoreland or farmland in question on the proposed project.

### **Section 3.5 Storm Water Management, Erosion Control, and Flood Hazard Areas**

As mentioned in the Project Background section above, Lots 1, 2 and 3 were determined by the State of Vermont to be in a "Common Plan of Development". As such, if the total impervious created by the project exceeds 1.0 acres of land, an Operational Stormwater permit is required for all three lots. Similarly, if the disturbed areas exceed 1.0 acres of land, a Construction General Permit (CGP) is required for all three lots. Trinity has been retained by the owners of Lots 1 and 3 to obtain an Operational Stormwater Permit and CGP. Discussions are underway with the owner of Lot 2, to determine if he will participate in the application for an Operational Stormwater permit and CGP.

The state Operational Stormwater permit for this site requires compliance with Recharge, Water Quality, the 1 year storm and the 10 year storm. In addition, Trinity has performed preliminary calculations that demonstrate compliance with the 25 year storm as described in Section 3.5, A.

26 UNION STREET, SUITE 1D

NORTH ADAMS, MA 01247

T (413) 398-3211

T (802) 694-1919

The forthcoming CGP will be used to demonstrate compliance with Section 3.5, B, Erosion Control.

The Operational Stormwater permit and CGP will be provided after the sketch plan approval and as part of the material required for final DRB approval.

There are no Flood Hazard Areas on the project.

### **Section 3.6 Community Services & Facilities**

The original approved subdivision for Lots 1, 2 and 3 was found not to create an undue burden on public facilities, fire protection facilities and is not large enough to trigger compliance with School Sites. The proposed changes to the subdivision by the BLA is very minor with respect to Community Services and Facilities and creates no undue burden.

### **Section 3.7 Roads, Driveways & Pedestrian Access**

The existing driveway on Higley Hill Road will be utilized and as previously approved by the DRB, will continue to serve only three lots, as such it is considered a driveway not a road. Turnouts are provided at a maximum of 500' intervals and the maximum grade is less than 15% on all of the proposed driveways shown on Sheet C-3, Proposed Conditions Site Plan. Driveway location have been previously permitted, constructed and designed to minimize the intrusion in the steep slope areas protected by Section 3.3, A Primary Conservation Resource.

### **Section 3.8 Water Supply & Wastewater Disposal**

Lots 1 and 3 currently have state wastewater permits to allow for a drilled well and on site wastewater disposal systems. The existing line of permits require an amendment to reflect the property line changes related to the BLA and to rescind the subdivision and wastewater permit that Bell Engineering applied for the 22 acre area that is proposed to be merged with Lot 3 by the BLA.

### **Section 3.9 Utilities**

Lot 1 is planning to connect to the power grid via aerial lines. The area on Lot 1 between the common driveway and the proposed house sites on Lot 1 has shallow ledge and the cost and disruption to the site resulting from blasting make it impractical to install underground lines. Lot 3 is likely to have a PV Panel system, but is also planned to be grid connected by underground electric.

### **Zoning Regulations (March 6, 2018) Review:**

#### **Summary:**

The existing Lots 1, 2 and 3 and the 63.71 acre lot are all within the Rural Residential District (RUR). The Wildlife Habitat Overlay District (WH, Section 350) also overlaps the majority of the existing Lots 1, 2 and 3 and overlaps all of the 63.71 acre lot. See below for further discussion as to how the proposed project will comply with Section 350 and Section 354, the Wildlife Habitat Overlay District Standards and Special Requirements. Single family residences are a permitted use within the (RUR) but when located in the (WH) a single family residence is a Condition Use (Section 305).

In several locations on the lots, the Surface Water Buffer Overlay District (Section 370) overlaps on the southeastern corner of the 63.71 acre parcel. There is no work proposed in the Surface Water Buffer Overlay District. There is no Flood and Fluvial Erosion Hazard Area Overlay District (Section 383) on the lots. Refer to Sheet C-2, Existing Conditions Site Plan and Sheet C-3, Proposed Conditions Site Plan for more information on the location of the Zoning Districts, Overlay Districts and the proposed features.

### **Section 354 - Wildlife Habitat Overlay District Standards and Special Requirements**

#### **1. Proximity to Road:**

The proposed house locations are very nearly the same locations as were originally approved, albeit under the previous Zoning Regulations. The house on Lot 1 is within the originally approved building envelope. The proposed ADU (garage and apartment) on Lot 1 is closer to the road than the house on Lot. The proposed house on Lot 3 is approximately 120' from the previously approved house location and building envelope and is still located in close proximity to the existing development on Lot 2, within the Wildlife Habitat Overlay District. The position of the houses on Lot 1 and Lot 3 leave a large contiguous wildlife area within the Wildlife Habitat Overlay District.

#### **2. Minimize Forest Fragmentation and Disruption:**

- a. The proposed development clusters the proposed houses on Lot 1 near to the house on Lot 2, and not very far from where the house on Lot 1 is presently approved. The proposed house on Lot 3 remains where it was originally permitted. The proposed ADU on Lot 3 is within the cleared area on Lot 3, close to the existing driveway.
- b. Please refer to Sheet C-3, Proposed Conditions Site Plan for the proposed building envelopes and proposed clearing limits.
- c. The proposed driveways are in keeping with driveway locations that were originally proposed and are shared by as many as 3 houses at Highly Hill Road, and by 2 houses in another location.
- d. Lighting on the building will be downward direct.
- e. The proposed house locations are very close to where they were originally permitted under the previous subdivision permit. Changes to the house location on Lot 1 and the addition of an ADU on Lot 3 are minor changes to the existing wildlife corridor.

- f. The proposed Boundary Line Adjustment (BLA), rather than fragmenting the property lines results in a merging of lots into larger lots. The resulting parcels are able to be utilized for future forest management and silva-culture.
- g. The proposed house locations result in very small changes to the connectivity of wildlife crossings.

**3. Naturally Vegetated Buffer may be required as a condition of approval.**

- a. Streams 300' Buffers are shown on plan, no work is proposed in the buffer.
- b. DWA 300' No Deer Wintering Areas identified on the lots.
- c. Mast Stands 1300' No Mast Stands found, to be reviewed under Section 355.
- d. Vernal Pools 600' No vernal pools identified.

**Section 355 – Consultation with an Environmental Consultant**

This project was reviewed by James McClammer of Connecticut Valley Environmental Services for the 2020 subdivision which is now considered null and void. The 2020 report covered the same 4 lots but the project had a different driveway design. The report stated that there were no Mast Stand or Vernal Pools located on the site. Trinity plans to have James McClammer review the site again in the spring and issue a revised report which will be submitted with the Final Application to the Marlboro DRB.

**Section 372 – Surface Water Buffer Overlay Standards**

There is a small portion of the 63.71 acre lot that is within the Surface Water Buffer Overlay District, but no work is proposed within this overlay district.

**Section 412 – Buildings on Lots**

There is only one principal residential building proposed for the each, Lot 1 and Lot 3.

**Section 415 – Location of Driveways**

There are no proposed changes to the location of the driveway on Higley Hill Road.

**Section 420 – Erosion and Sediment Control**

Erosion and Sediment Control measures will be shown and permitted through the Construction General Permit (CGP) program. The CGP permit will be presented to the DRB as part of the final application.

**Section 460 – General Performance Standards**

- 1. Agricultural Operations:

The proposed project is residential in nature. No Agricultural Operations are proposed. However, it is understood that any future Agricultural Operations must adhere to Accepted Agricultural Practices (AAPs).

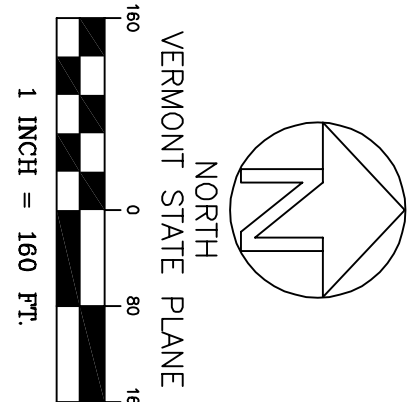
2. Forestry Operations:

The proposed project is residential in nature. No Forestry Operations are proposed. However, it is understood that any future Forestry Operations must adhere to Accepted Minimum Practices (AMPs).

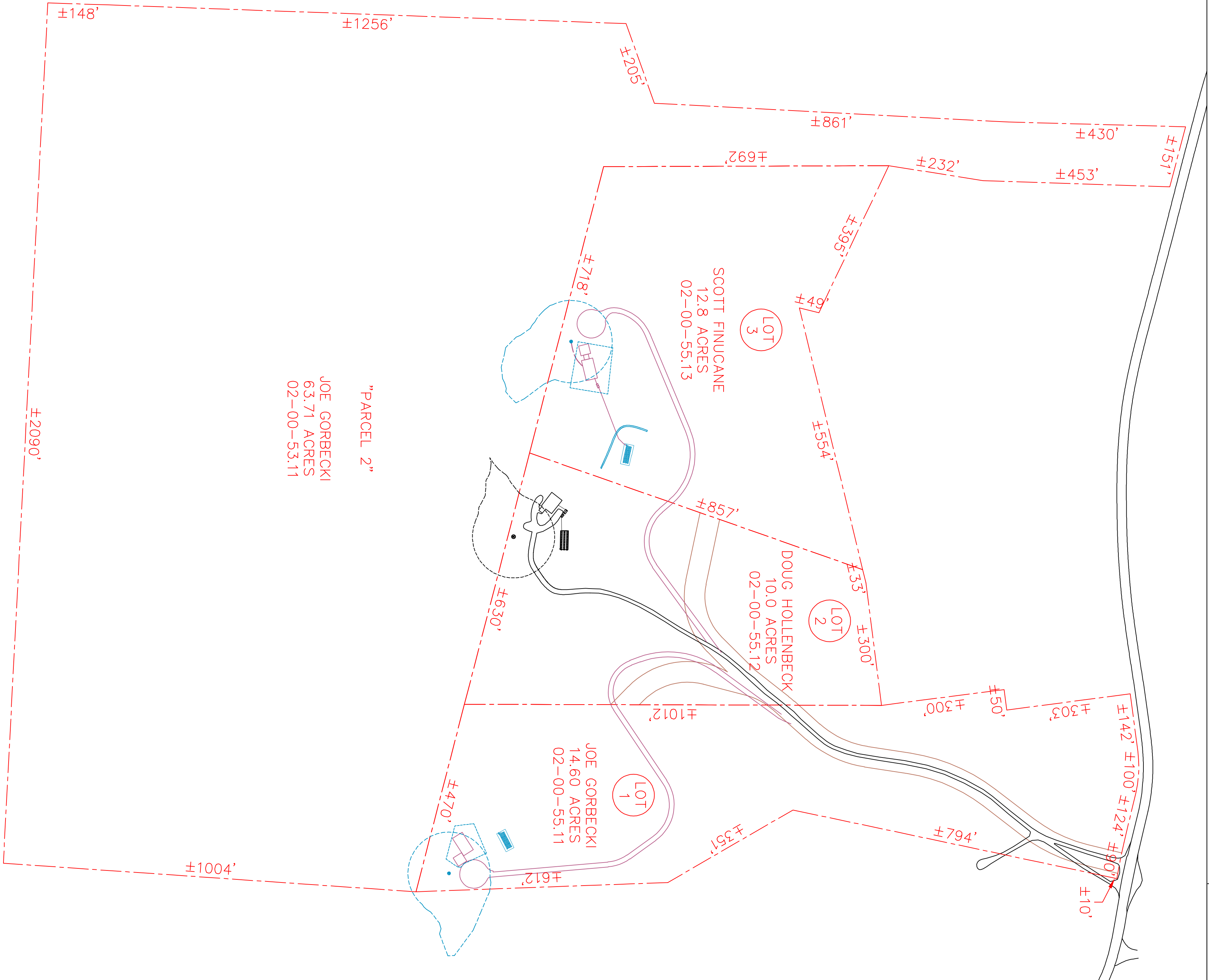
3. Standards that Apply to all Uses:

The applicants understand that the project must adhere to the standards described in Section 460, 3,a-j. As described above a CGP and Operational Stormwater Permit will be provided to the Marlboro DRB which will satisfy the standards described in Standard 3,i and Standard 3,j respectively of Section 460.

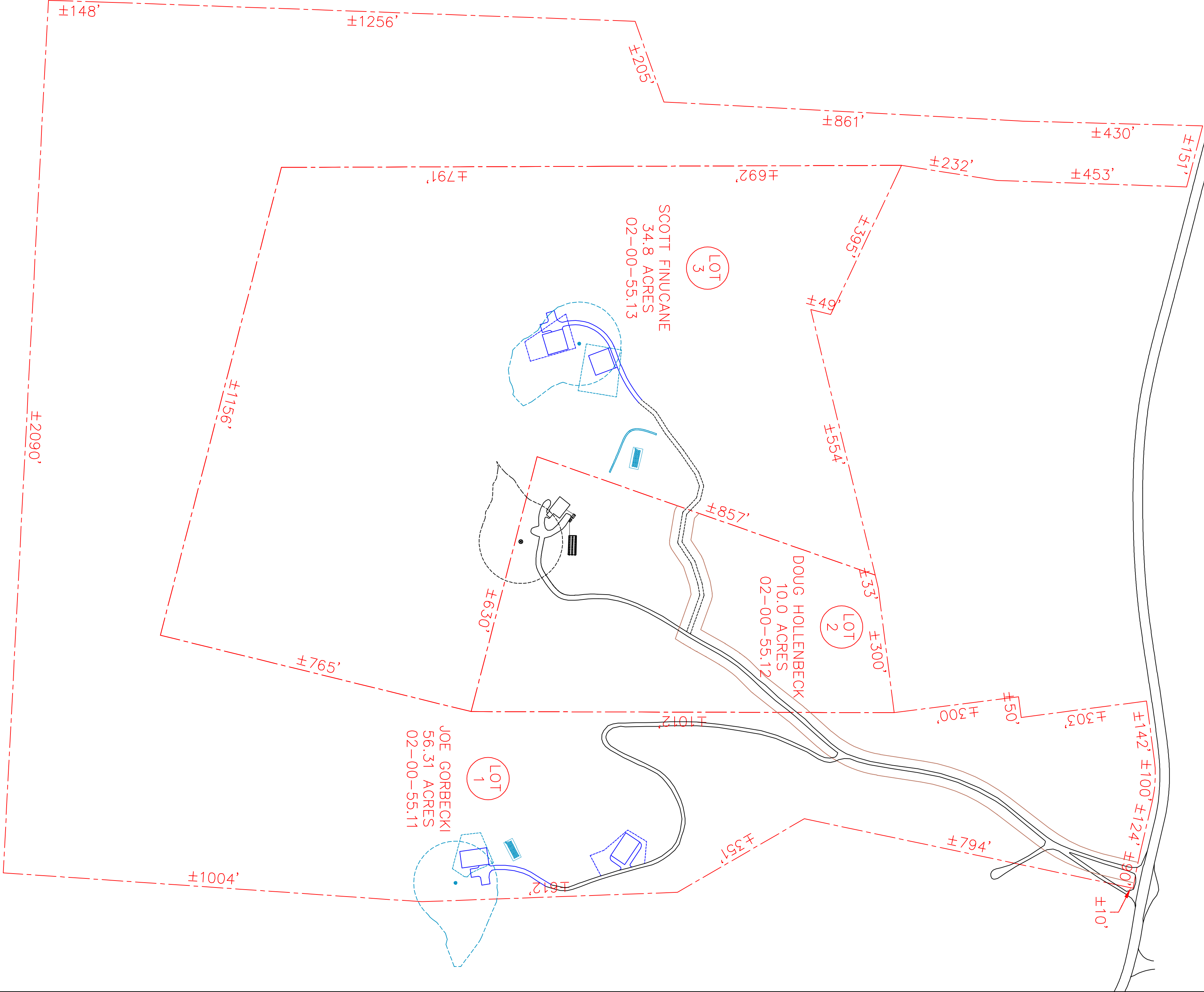
- NOTES:
- 1) PERMITTED BUILDINGS ENVELOPES, HOUSE LOCATIONS, DRIVEWAYS, AND RIGHTS-OF-WAY SHOWN ARE PER DRB APPROVAL, 11/18/2015, SEE SHEET C-2. THE RIGHTS-OF-WAY ARE INCLUDED IN THE EXISTING DEEDS.
  - 2) PERMITTED WASTEWATER SYSTEMS AND DRILLED WELLS SHOWN ARE PER WW-2-2437, 12/15/2006, SEE SHEET C-2.



- NOTES:
- 1) PERMITTED BUILDING ENVELOPES SHOWN ARE PER DRB APPROVAL, 11/18/2015; PERMITTED WASTEWATER SYSTEMS AND DRILLED WELLS SHOWN ARE PER WW-2-2437, 12/15/2006, SEE SHEET C-3.
  - 2) THE PROPOSED RESIDENCE ON LOT 1 IS LOCATED WITHIN THE PERMITTED BUILDING ENVELOPE, WHILE THE PROPOSED GARAGE WITH 2-BEDROOM ADU IS LOCATED OUTSIDE THE ENVELOPE. THE PROPOSED RESIDENCE ON LOT 3 IS LOCATED ADJACENT TO THE PERMITTED BUILDING ENVELOPE, WHILE THE PROPOSED BARN IS LOCATED WITHIN THE ENVELOPE.



EXISTING PROPERTY LINES



PROPOSED PROPERTY LINES



26 UNION STREET, SUITE 1D  
NORTH ADAMS, MA 01247  
(413) 398-3211 & (802) 694-1919

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AND NOT TO BE REPRODUCED WITHOUT WRITTEN PERMISSION

REV. NO.	DATE	DESCRIPTION	BY
1	1/27/23	FOR SKETCH PLAN REVIEW	J.E.D.

FOR SKETCH  
PLAN REVIEW

DESIGNED BY: J.E.D.
DRAWN BY: T.G.K.
CHECKED BY: J.E.D.
SCALE: AS SHOWN

PROJECT: PREPARED FOR MARLBORO HEIGHTS MARLBORO HEIGHTS TOWN OF MARLBORO, VERMONT
--------------------------------------------------------------------------------------------

DATE:  
1/27/2023

PROJECT NUMBER:  
21211

SHEET NUMBER: SHEET:  
21211

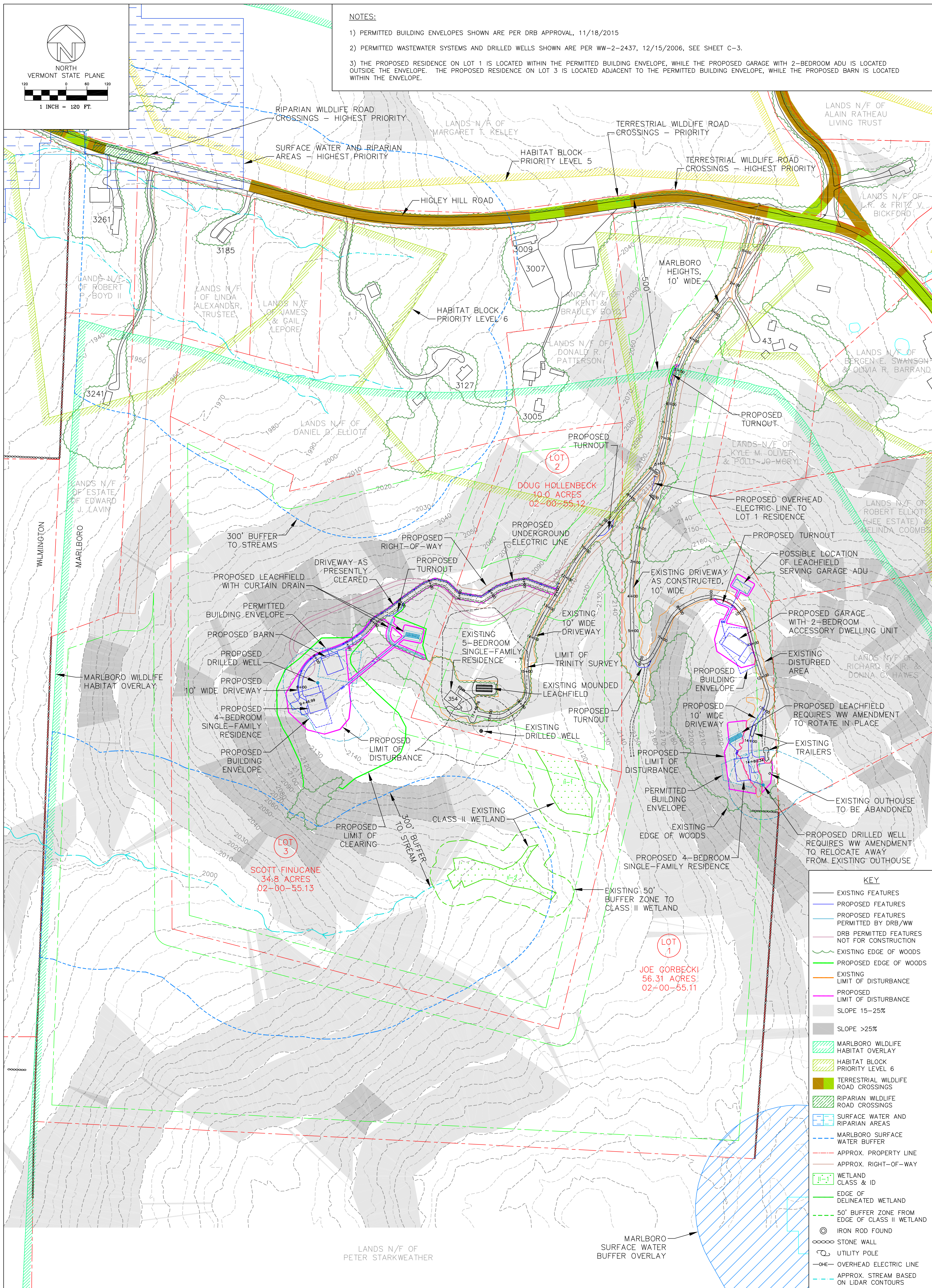
C-1  
1  
OF  
4

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1	1/27/23	FOR SKETCH PLAN REVIEW	J.E.D.
REV. NO.	DATE	DESCRIPTION	BY

## NOTES:

- 1) PERMITTED BUILDING ENVELOPES SHOWN ARE PER DRB APPROVAL, 11/18/2015
- 2) PERMITTED WASTEWATER SYSTEMS AND DRILLED WELLS SHOWN ARE PER WW-2-2437, 12/15/2006, SEE SHEET C-3.
- 3) THE PROPOSED RESIDENCE ON LOT 1 IS LOCATED WITHIN THE PERMITTED BUILDING ENVELOPE, WHILE THE PROPOSED GARAGE WITH 2-BEDROOM ADU IS LOCATED OUTSIDE THE ENVELOPE. THE PROPOSED RESIDENCE ON LOT 3 IS LOCATED ADJACENT TO THE PERMITTED BUILDING ENVELOPE, WHILE THE PROPOSED BARN IS LOCATED WITHIN THE ENVELOPE.



C-3

3

OF 4

SHEET NUMBER: SHEET

21211

PROJECT NUMBER:

1/27/2023

DATE:

TITLE:

PROPOSED CONDITIONS  
SITE PLANPROJECT:  
PREPARED FOR MARLBORO HEIGHTS  
MARLBORO SURFACE  
TOWN OF MARLBORO, VERMONT

DESIGNED BY: J.E.D.

DRAWN BY: T.G.K.

CHECKED BY: J.E.D.

SCALE: AS SHOWN

FOR SKETCH  
PLAN REVIEW

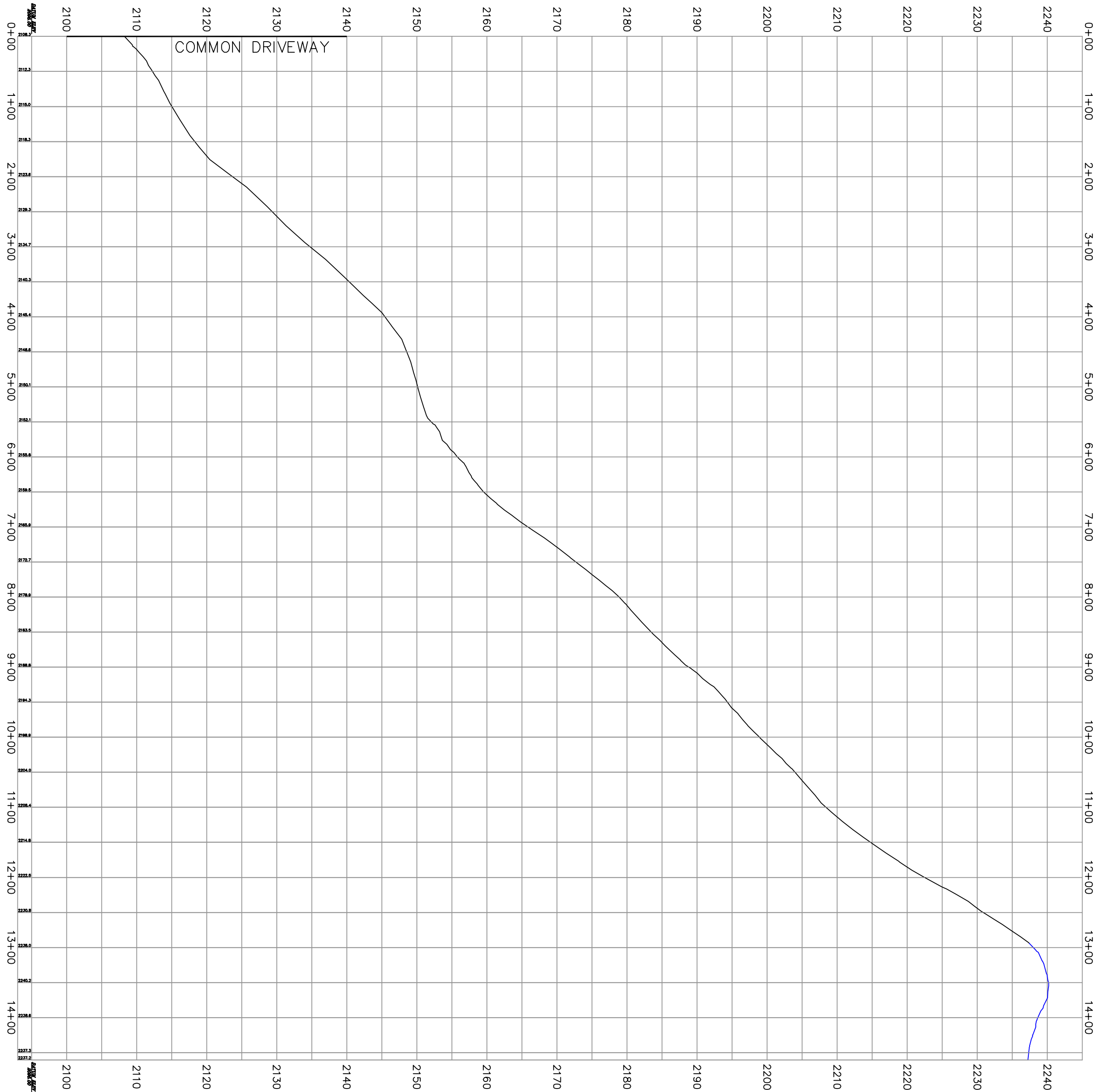
REV. NO.	DATE	DESCRIPTION	BY
1	1/27/23	FOR SKETCH PLAN REVIEW	J.E.D.

**TRINITY ENGINEERING**  
TECHNICAL SERVICES, LLC

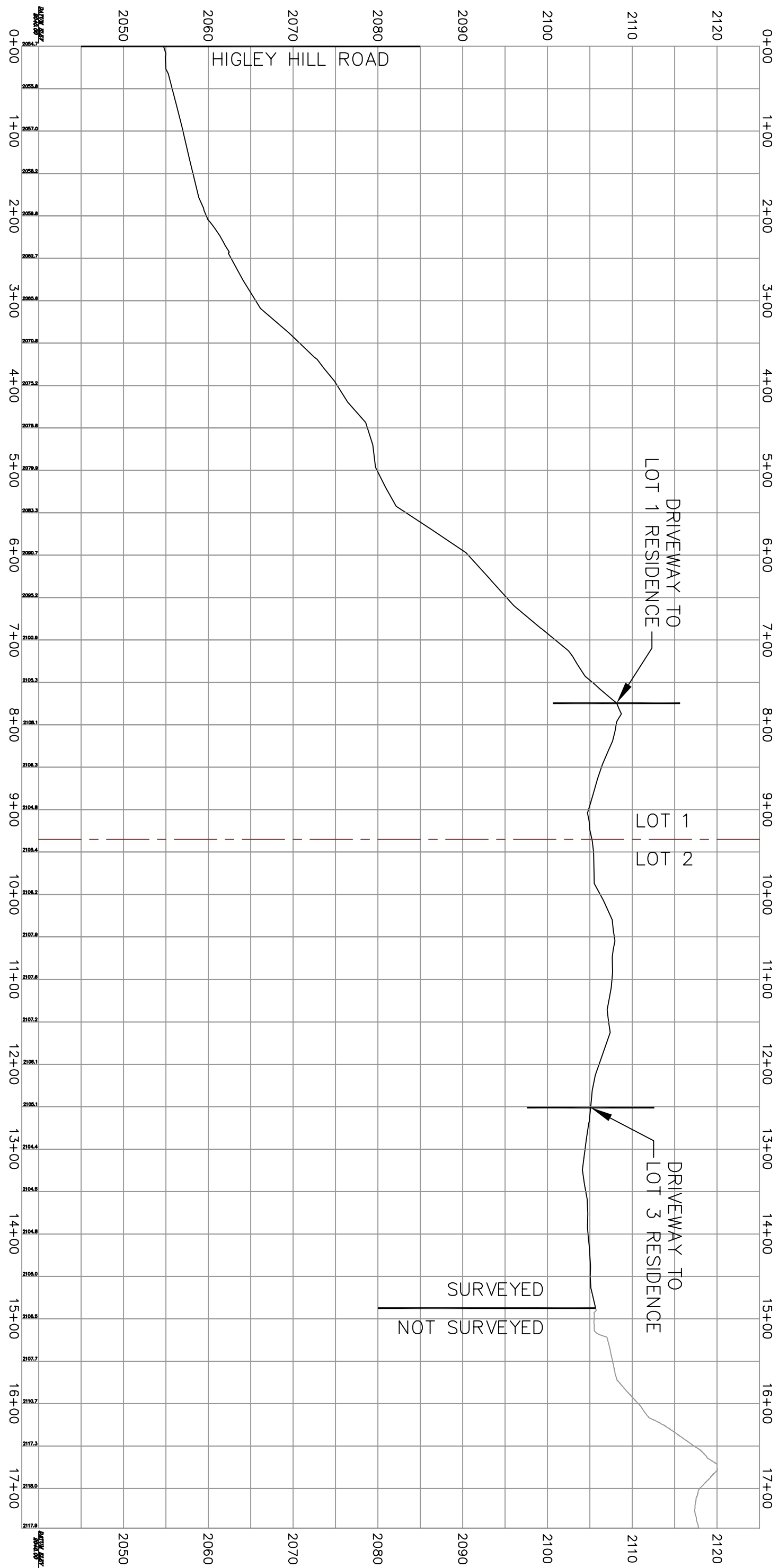
26 UNION STREET, SUITE 1D  
NORTH ADAMS, MA 01247  
(413) 398-3211 & (802) 694-1919

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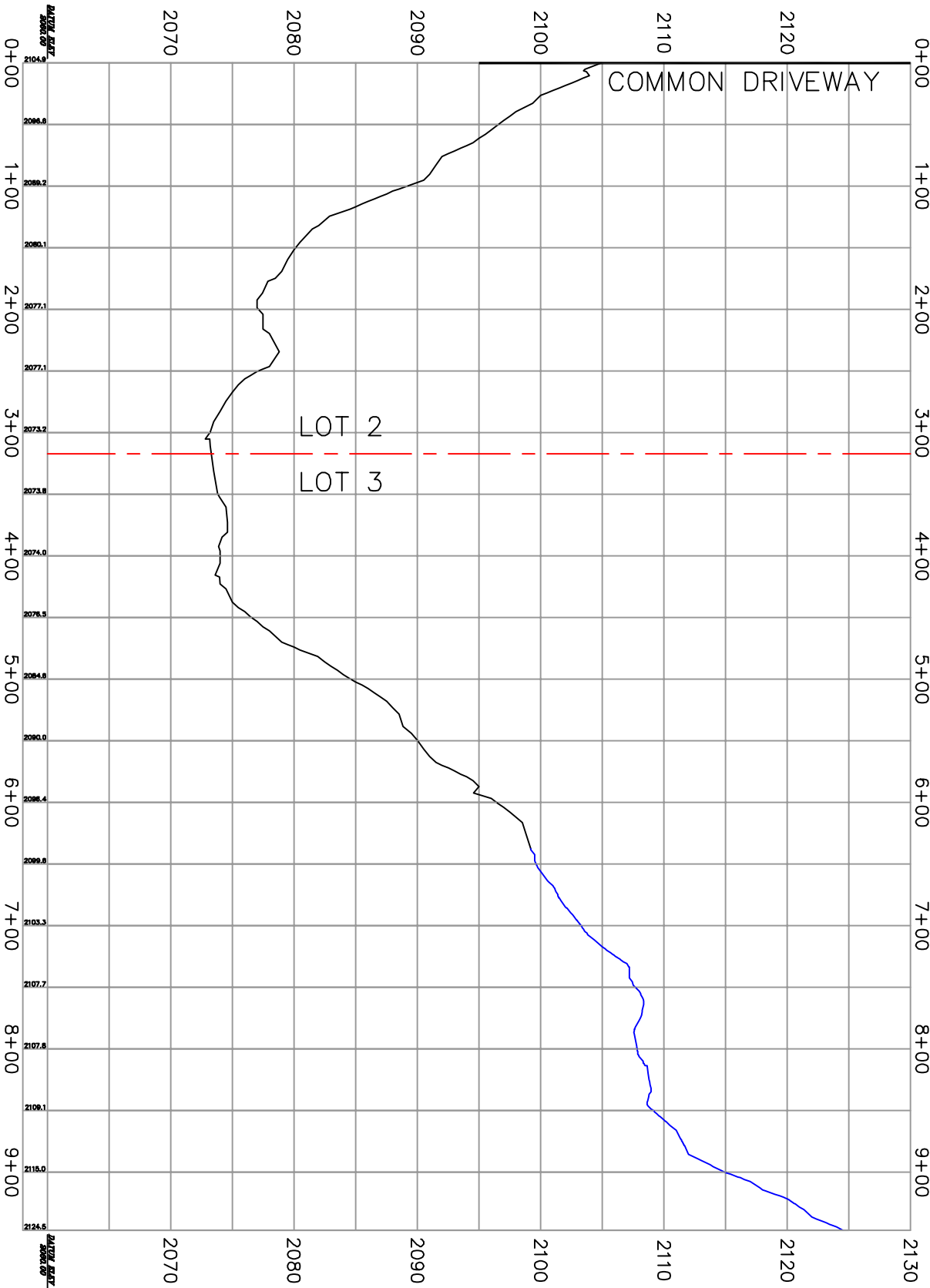
LOT 1, EXISTING AND PROPOSED DRIVEWAY PROFILE -- COMMON DRIVEWAY TO PROPOSED RESIDENCE  
1 INCH = 120 FT. HORIZONTAL  
1 INCH = 12 FT. VERTICAL



COMMON DRIVEWAY PROFILE -- HIGLEY HILL ROAD TO 354 MARLBORO HEIGHTS  
1 INCH = 120 FT. HORIZONTAL  
1 INCH = 12 FT. VERTICAL



LOT 3, PROPOSED DRIVEWAY PROFILE -- COMMON DRIVEWAY TO PROPOSED RESIDENCE  
1 INCH = 120 FT. HORIZONTAL  
1 INCH = 12 FT. VERTICAL





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1	1/27/23	FOR SKETCH PLAN REVIEW	J.E.D.
REV. NO.	DATE	DESCRIPTION	BY

FOR SKETCH  
PLAN REVIEW

DESIGNED BY:	J.E.D.
DRAWN BY:	T.G.K.
CHECKED BY:	J.E.D.
SCALE:	AS SHOWN

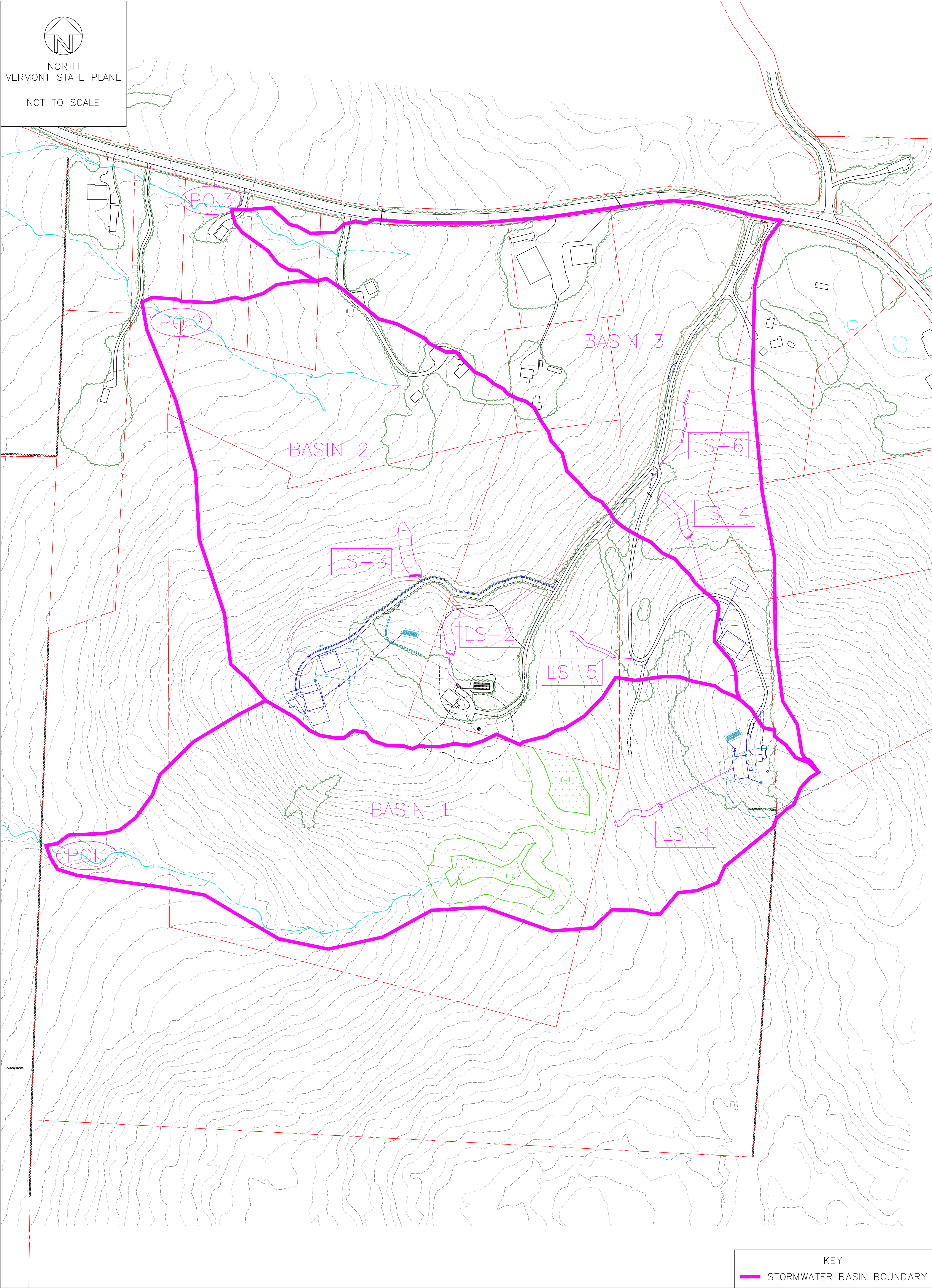
PROJECT:	
PREPARED FOR MARLBORO HEIGHTS MARLBORO HEIGHTS TOWN OF MARLBORO, VERMONT	

DATE:	1/27/2023
PROJECT NUMBER:	21211




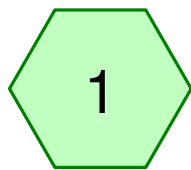
VT. State Plane Grid North

DATE: Jan. 27, 2023	DRAWN BY: BAJ	PROJECT: Marlboro Heights
SCALE: 1"=150'	SHEET 1 OF 1	ACAD NAME: Marlboro Heights

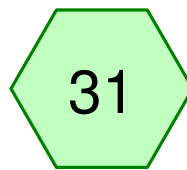


KEY  
— STORMWATER BASIN BOUNDARY

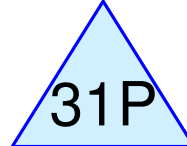
SHEET NUMBER: SW-1	PROJECT NUMBER: 21211	DATE: 1/27/2023	TITLE: STORMWATER BASINS SITE PLAN		DESIGNED BY: J.E.D.	FOR SKETCH PLAN REVIEW							 26 UNION STREET, SUITE 1D NORTH ADAMS, MA 01247 (413) 398-3211 & (802) 694-1919 COPYRIGHT © TRINITY - ALL RIGHTS RESERVED. ALL MATERIAL CONTAINED WITHIN IS PROPERTY OF TRINITY AND NOT TO BE REPRODUCED WITHOUT WRITTEN PERMISSION
					DRAWN BY: T.G.K.								
			PROJECT: PREPARED FOR MARLBORO HEIGHTS MARLBORO HEIGHTS TOWN OF MARLBORO, VERMONT		CHECKED BY: J.E.D.								
					SCALE: AS SHOWN								
							1	1/27/23	FOR SKETCH PLAN REVIEW	J.E.D.			
							REV. NO.	DATE	DESCRIPTION	BY			



Pre 1



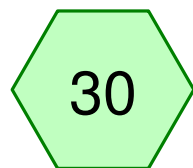
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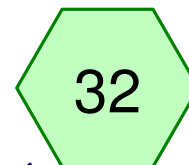
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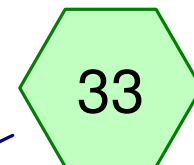
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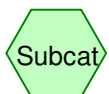
Post 1 Rem.



Runon-1a



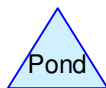
Runon-1b



Subcat



Reach



Pond



Link

**Routing Diagram for 21211 Marlboro Heights Stormwater Basin 1**

Prepared by Trinity Engineering, Printed 1/31/2023

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

## 21211 Marlboro Heights Stormwater Basin 1

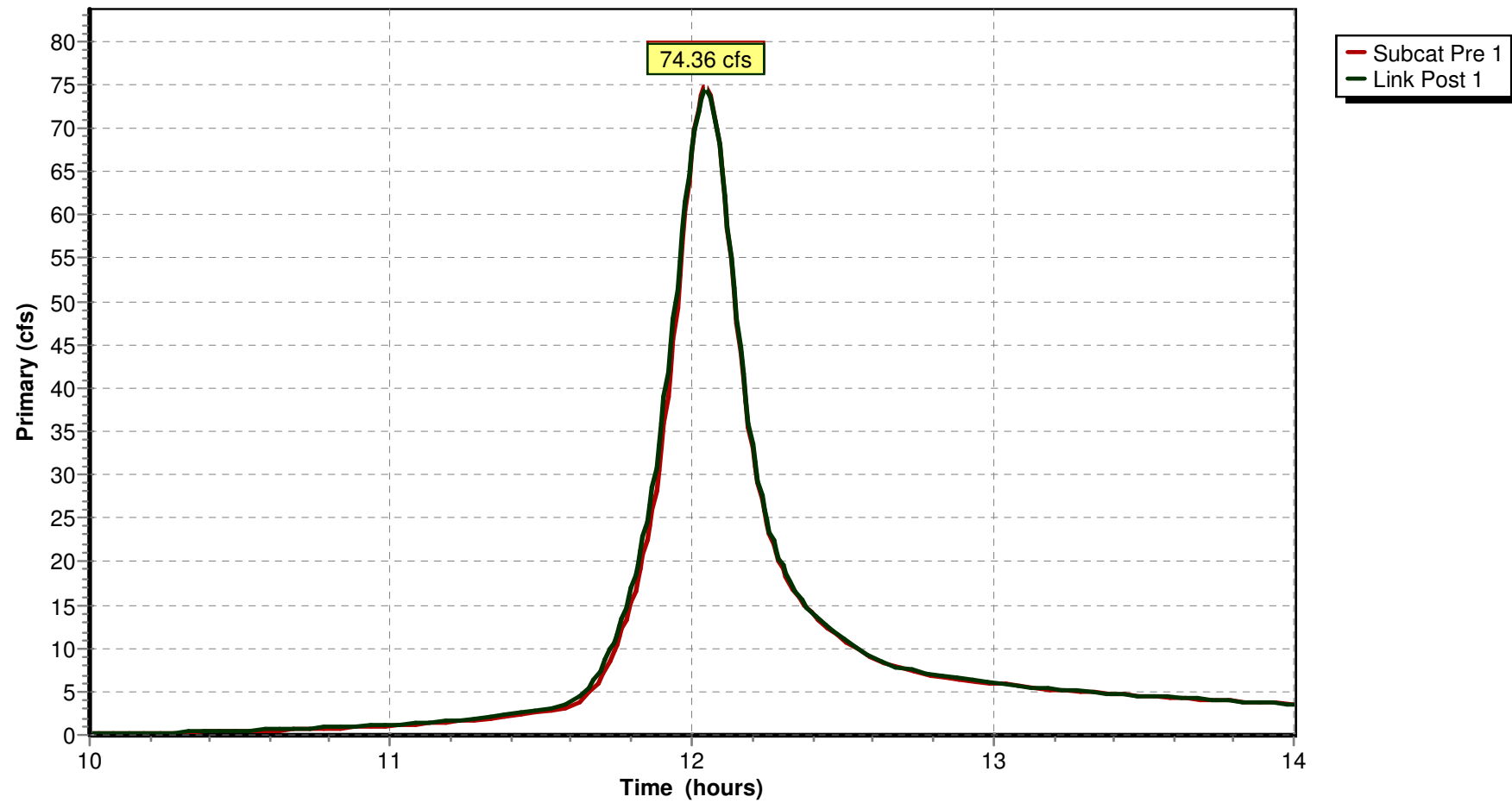
Prepared by Trinity Engineering

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

Type II 24-hr 25YR Rainfall=5.36"

Printed 1/31/2023

### Primary Comparison



## 21211 Marlboro Heights Stormwater Basin 1

Prepared by Trinity Engineering

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

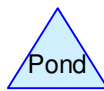
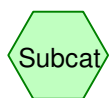
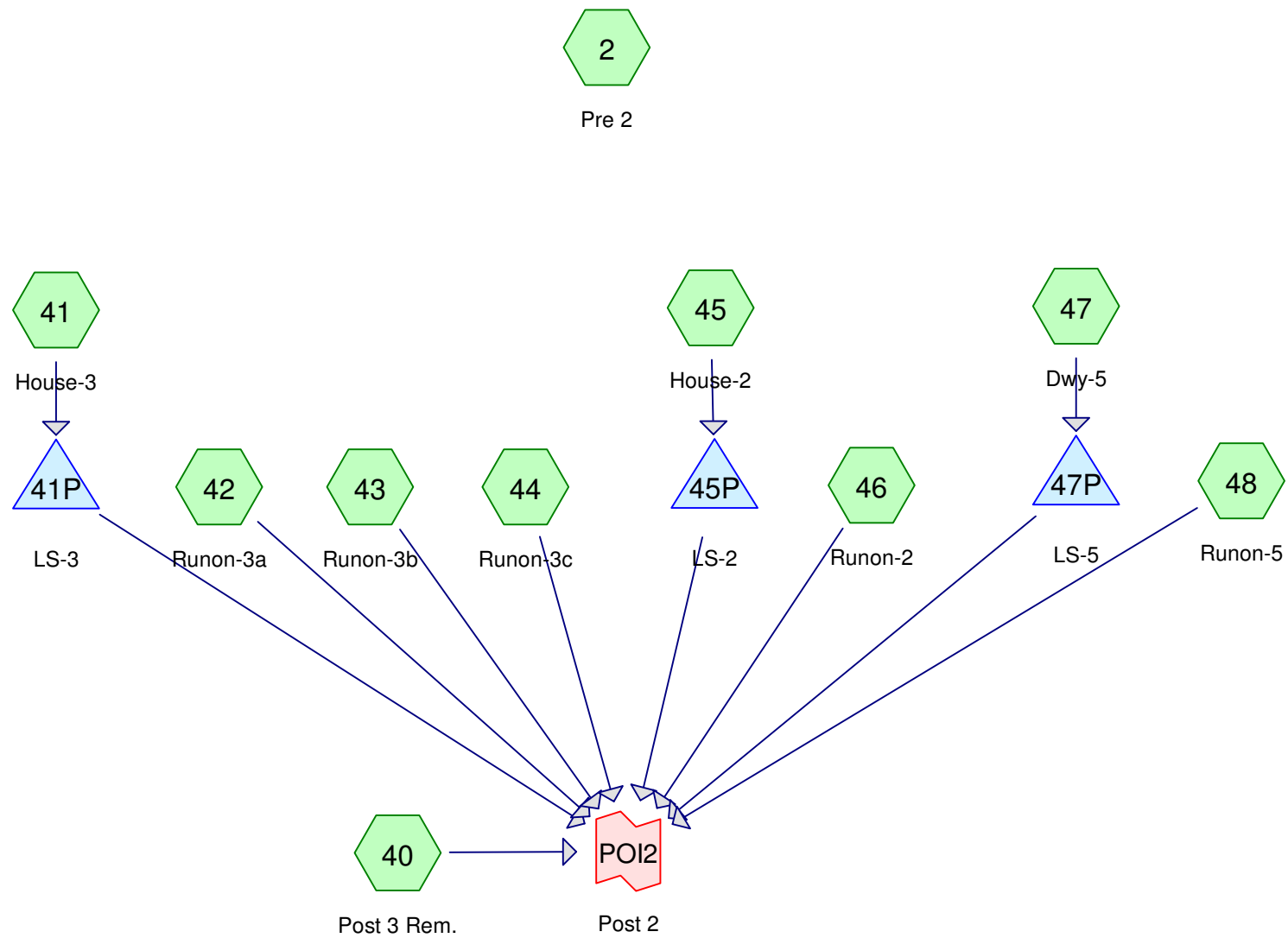
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Type II 24-hr 25YR Rainfall=5.36"

Printed 1/31/2023

### Comparison Report

Node	Inflow (cfs)	Primary (cfs)
Subcat Pre 1	0.00	<b>74.73</b>
Link Post 1	<b>74.36</b>	74.36



# Routing Diagram for 21211 Marlboro Heights Stormwater Basin 2

Prepared by Trinity Engineering, Printed 1/31/2023

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

## 21211 Marlboro Heights Stormwater Basin 2

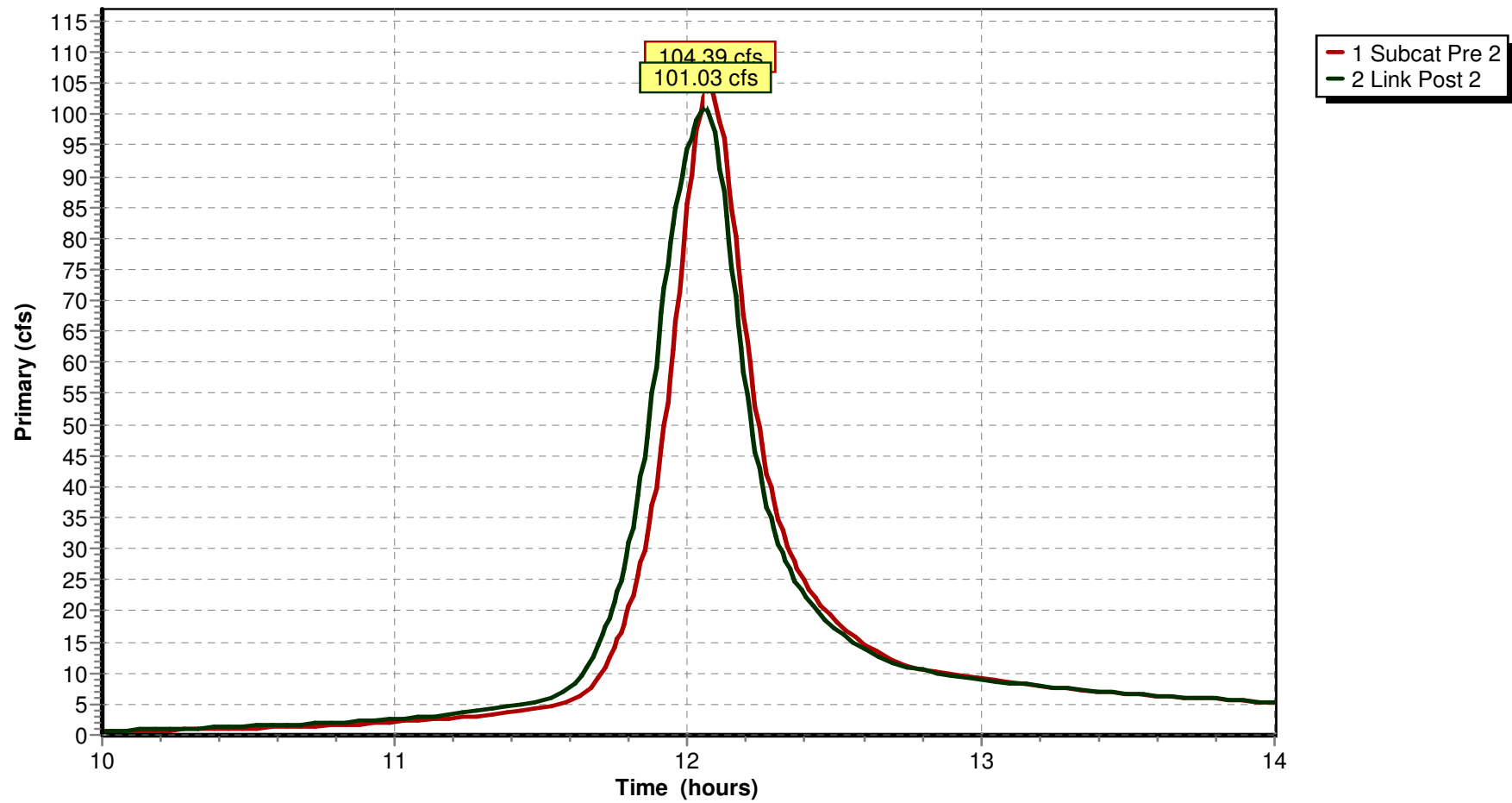
Prepared by Trinity Engineering

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

Type II 24-hr 25YR Rainfall=5.36"

Printed 1/31/2023

### Primary Comparison



## 21211 Marlboro Heights Stormwater Basin 2

Prepared by Trinity Engineering

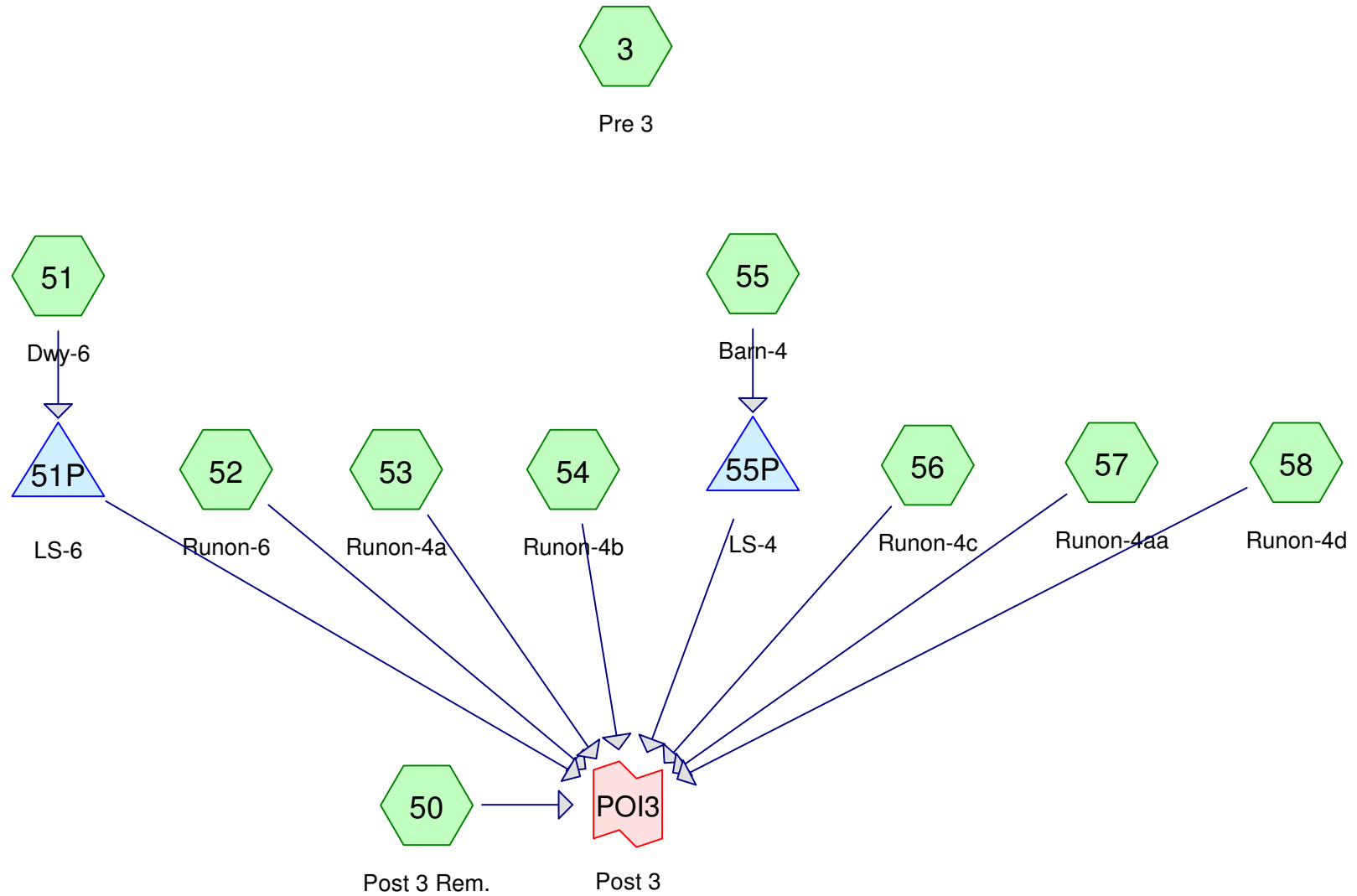
HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

Type II 24-hr 25YR Rainfall=5.36"

Printed 1/31/2023

### Comparison Report

Node	Inflow (cfs)	Primary (cfs)
1 Subcat Pre 2	0.00	<b>104.39</b>
2 Link Post 2	<b>101.03</b>	101.03



### Routing Diagram for 21211 Marlboro Heights Stormwater Basin 3

Prepared by Trinity Engineering, Printed 1/31/2023

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

## 21211 Marlboro Heights Stormwater Basin 3

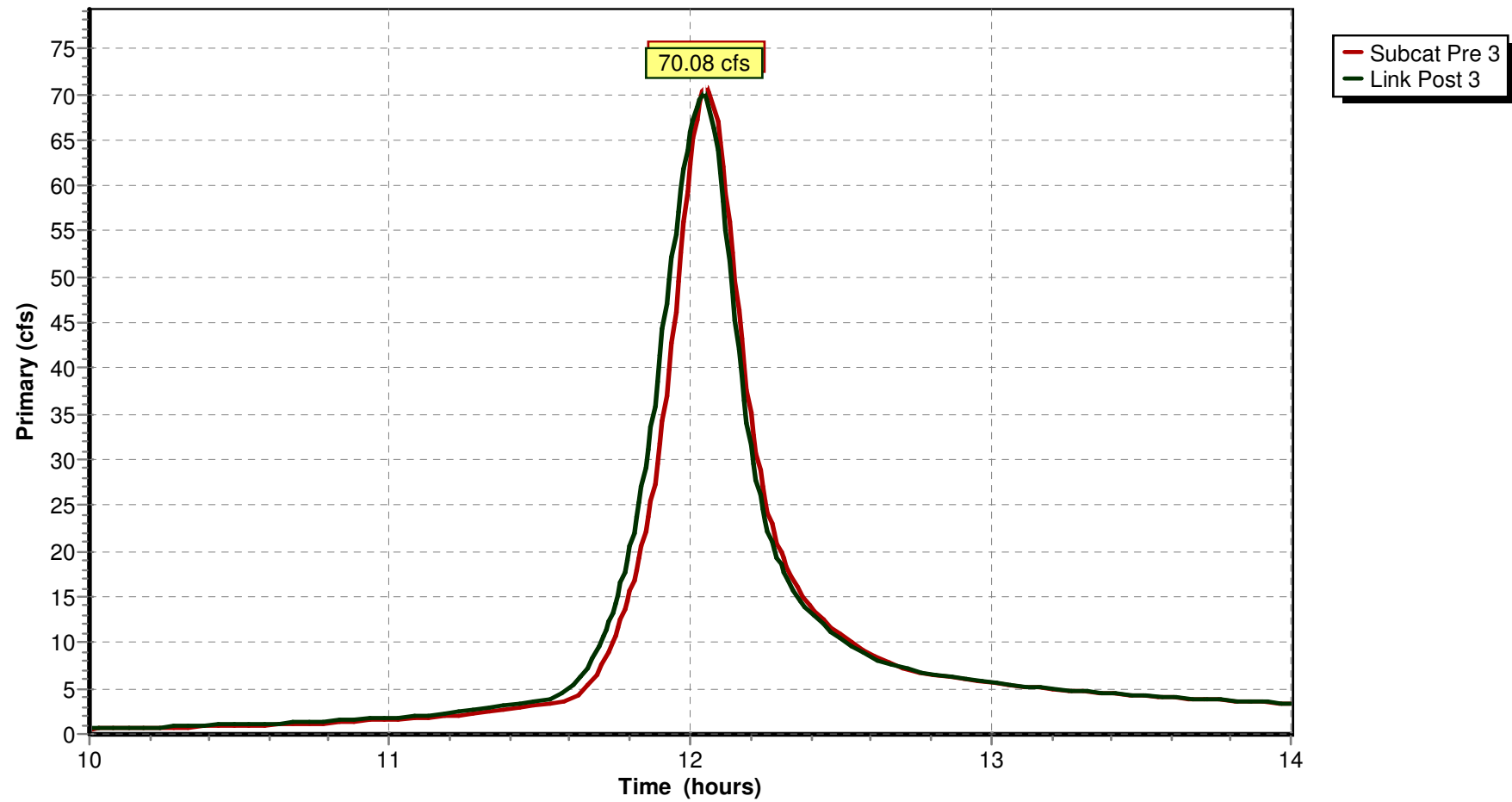
Prepared by Trinity Engineering

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

Type II 24-hr 25YR Rainfall=5.36"

Printed 1/31/2023

### Primary Comparison



## 21211 Marlboro Heights Stormwater Basin 3

Prepared by Trinity Engineering

HydroCAD® 10.20-2f s/n 09717 © 2022 HydroCAD Software Solutions LLC

---

*Type II 24-hr 25YR Rainfall=5.36"*

Printed 1/31/2023

### Comparison Report

Node	Inflow (cfs)	Primary (cfs)
Subcat Pre 3	0.00	<b>70.80</b>
Link Post 3	<b>70.08</b>	70.08

65 / 175

WARRANTY DEED

**Know All Persons By These Presents, That I, JOHN MCKAY**, of Vernon, Windham County, Vermont, Grantor, in consideration of One Dollar and other valuable consideration paid to his full satisfaction by ROBERT SCOTT FINUCANE, of South Kent, Litchfield County, Connecticut, Grantee, by these presents, does freely **Give, Grant, Sell, Convey And Confirm** unto Grantee, ROBERT SCOTT FINUCANE, and his heirs and assigns forever, certain lands in Marlboro, Windham County, Vermont, described as follows, viz:

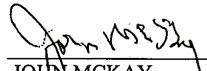
See Schedule "A" attached hereto and incorporated herein.

**To Have And To Hold** said granted lands, with all the privileges and appurtenances thereof, to Grantee, ROBERT SCOTT FINUCANE, and his heirs and assigns, to his own use and behoof forever; and Grantor, JOHN MCKAY, his heirs and assigns, does covenant with, ROBERT SCOTT FINUCANE, and his heirs and assigns, that until the ensealing of these presents, that Grantor, JOHN MCKAY, is the sole owner of the lands, and has good right and title to convey the same in manner aforesaid, that they are **Free From Every Encumbrance**, except as aforesaid; and JOHN MCKAY hereby engages to **Warrant And Defend** the same against all lawful claims whatever, except as aforesaid.

In Witness Whereof, I, hereunto set my hand and seal this 6<sup>th</sup> day of November 2020.


In Presence Of:

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
JOHN MCKAY

STATE OF VERMONT  
WINDHAM COUNTY, SS.

At Brattleboro this 6 day of November 2020, JOHN MCKAY personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed.

Before me,   
\_\_\_\_\_  
Vermont Notary Public



Johnathan D Bratton  
Notary Public State of Vermont  
Commission  
★ No. 157.0000068 ★  
My Commission Expires  
1/31/21

65 / 176

Schedule A

Being a portion of the same lands conveyed to the Grantor herein, JOHN MCKAY, by Warranty Deed of Robert G. Elliot, Jr., dated December 31, 1996 and recorded in Book 38, Page 35 of the Marlboro Land Records, and which are more particularly described as follows:

Being Lot #3 as more particularly shown on a survey entitled "3 Lot Subdivision, Land of John McKay, Marlboro, Vermont" prepared by William J. Fitzgerald, dated April 13, 2006 and recorded at Slide 387 of the Marlboro Land Records and more particularly described as follows:

Beginning at a point located at the northernmost point of the herein described parcel, said point being marked by a 5/8" rebar set up 15";

Thence traveling S 35°17'40" W a distance of 856.8 feet to a point being marked by an iron pin at the southeast corner of the herein described parcel;

Thence turning and traveling N 54°28'00" W a distance of 717.5 feet to a point being marking the southwest corner of the herein described parcel;

Thence turning and traveling N 15°18'40" E a distance of 692.2 feet to a point being marked by a 1/2"x3/4" rod set up 12" at the northwest corner of the herein described parcel;

Thence turning and traveling S 43°30'00"E a distance of 395.1 feet to a point being marked by a 1/2"x1" rod set up 15" at the northern boundary of the herein described parcel;

Thence turning and traveling S 31°01'40"W a distance of 48.9 feet to a point being marked by a 1/2"x3/4" rod set up 17" at the northern boundary of the herein described parcel;

Thence turning and traveling S 87°34'40" E a distance of 687.3 feet to the point and place of beginning.

The herein described parcel to contain 12.86 acres, more or less, by said survey.

Conveying to the Grantee, his heirs and assigns, a 50-foot right of way leading from Higley Hill Road, so-called, across Lot #1 and Lots #2, as reserved by Grantor in past conveyances, as depicted and described in the aforesaid survey, for ingress, egress and utilities to be located on the herein described property and as this right of way is more particularly shown on the aforesaid survey. The right of way rights granted herein are not exclusive and will be shared with the Grantors, their heirs and assigns, and other lot owners in subdivision and Grantee agrees by the acceptance of this deed to share in the prorated maintenance of the right of way.

Notice of permit requirements. In order to comply with applicable state Rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the lot of land described in this deed if the use or useful occupancy of that structure or building will require the installation of or connection to a potable water supply or wastewater system, without first complying with the applicable Rules and obtaining any required permit. Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved.

**Town Clerk's Office**

Marlboro, Vermont

Received & Recorded

Date November 12, 2020 12:47PM

Book 105 Page 175

Attest [Signature]  
Assy Town Clerk

Vermont Property Transfer Tax  
32 V.S.A. Chap. 231

— ACKNOWLEDGMENT —

Return Rec'd

Return No. 105/177

Signed [Signature] Assy, Clerk

Date November 12, 2020

65 / 160

WARRANTY DEED

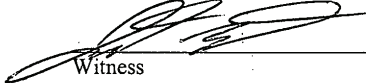
**Know All Persons By These Presents, That we** JOHN McKAY and DIANA McKAY, of Vernon, Windham County, Vermont, Grantors, in consideration of One Dollar and other valuable consideration paid to their full satisfaction by JOSEPH GORBECKI, of Southbury, New Haven County, Litchfield County, Connecticut, Grantee, by these presents, do freely **Give, Grant, Sell, Convey And Confirm** unto Grantee, JOSEPH GORBECKI, and his heirs and assigns forever, certain lands in Marlboro, Windham County, Vermont, described as follows, viz:

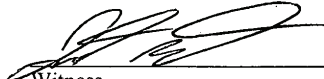
See Schedule "A" attached hereto and incorporated herein.

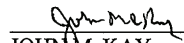
**To Have And To Hold** said granted lands, with all the privileges and appurtenances thereof, to Grantee, JOSEPH GORBECKI, and his heirs and assigns, to his own use and behoof forever; and Grantors, JOHN McKAY and DIANA McKAY, their heirs and assigns, does covenant with, JOSEPH GORBECKI, and his heirs and assigns, that until the ensembling of these presents, that Grantors, JOHN McKAY and DIANA McKAY, are the sole owners of the lands, and have good right and title to convey the same in manner aforesaid, that they are **Free From Every Encumbrance**, except as aforesaid; and JOHN McKAY and DIANA McKAY hereby engage to **Warrant And Defend** the same against all lawful claims whatever, except as aforesaid.

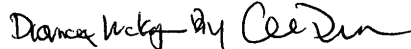
In Witness Whereof, I, hereunto set my hand and seal this 6<sup>th</sup> day of November 2020.

In Presence Of:

  
Witness


  
Witness

  
JOHN McKAY

  
Her Attorney-in-Fact  
DIANA McKAY  
By Christopher S. Dugan, Esq.,  
As her attorney-in-fact

STATE OF VERMONT  
WINDHAM COUNTY, SS.

At Marlboro this 6 day of November 2020, JOHN McKAY and Christopher S. Dugan, as attorney-in-fact for DIANA McKAY, personally appeared, and they acknowledged this instrument, by them sealed and subscribed, to be their free act and deed.

Before me,   
Vermont Notary Public



Johnathan D Bratton  
Notary Public State of Vermont  
Commission  
★ No 157.0000069 ★  
My Commission Expires  
1/31/21

SCHEDULE A

PARCEL ONE: Being a portion of the same lands conveyed to the Grantor herein, JOHN MCKAY, by Quitclaim Deed of Robert G. Elliot, Jr., dated December 31, 1996 and recorded in Book 38, Page 35 of the Marlboro Land Records, and which are more particularly described as follows:

Being Lot #1 as more particularly shown on a survey entitled "3 Lot Subdivision, Land of John McKay, Marlboro, Vermont" prepared by William J. Fitzgerald, dated April 13, 2006 and recorded at Slide 387 of the Marlboro Land Records and more particularly described as follows:

Beginning at a point located on Higley Hill Road, so-called, said point located at the northeast corner of the herein described parcel, said point being marked by a 1 1/4" iron pin set up 1";

Thence traveling S 28°01'30" W a distance of 803.3 feet to a point being marked by an iron pin at the southeast corner of the herein described parcel;

Thence turning and traveling S 14°04'20" E a distance of 351.4 feet, more or less, to a point;

Thence turning and traveling S 13°54'20" W a distance of 611.2 feet to a point being marked by a 1 1/4" rod set up 12" at the southeast corner of the herein described parcel;

Thence turning and traveling N 54°28'00"W a distance of 470 feet to a point being marked by an iron pin at the southwest boundary of the herein described parcel;

Thence turning and traveling S 16°09'40"W a distance of 1012.2 feet to a point being marked by a 5/8" rebar set up 15" along the western boundary of the herein described parcel;

Thence turning and traveling N 08°41'40"E a distance of 299.8 feet to a point being marked by a 5/8" rebar set up 30" along the western boundary of the herein described parcel;

Thence turning and traveling N 81°18'20"W a distance of 50 feet to a point marked by an iron pin to be set along the western boundary of the herein described parcel;

Thence turning and traveling N 08°31'20"E a distance of 302.6 feet to a point on the northwest corner of the herein described parcel;

Thence turning and traveling S 69°44'40" E a distance of 456.1 feet along Higley Hill Road, so-called to the point and place of beginning.

The herein described parcel to contain 14.62 acres, more or less, by said survey.

Subject to a 50-foot right of way for ingress, egress and utilities across Lot #1 for the benefit of the Grantor, and his and assigns, and the owners of Lot #2 and Lot #3 as described in the survey.

PARCEL TWO: Being the same land conveyed to the Grantors herein, JOHN MCKAY and DIANA MCKAY, by Quitclaim Deed of Marlboro Realty Group, LLC, dated January 15, 2014, and recorded on January 22, 2014 in Book 58, Page 137 of the Marlboro Land Records, and which are more particularly described as follows:

Being all the same lands conveyed to Marlboro Realty Group, LLC by Warranty Deed of Edward J. Monks, dated August 7, 2009 and recorded in Book 52, Page 621 of the Marlboro Land Records, and which are more particularly described as follows:

Being all and the same lands and premises conveyed to Edward J. Monks by warranty deed of Donald E. Elliott, dated 10 December 1985 and recorded in Volume 27, Page 385 of the Marlboro Land Records, and consisting of 70.97 acres, more or less. Said parcel is more particularly described as follows:

Excepting herefrom a 4.1 acre parcel, more or less, conveyed by Edward Monks to James Lavin, dated 13 June 1994 and recorded in Volume 35, Page 374 of the Marlboro Land Records. Said parcel is more particularly described in Schedule B, attached hereto.

Reference may be had to a Deferral of Permit #DE-2-3219 issued by the Vermont Agency of Environmental Conservation of 3 February 1994 and recorded in Volume 35, Page 161 of the Marlboro Land Records.

Being all and the same lands and premises conveyed to Donald E. Elliott by Warranty Deed of Karen E. Baker, Trustee dated April 24, 1972 and recorded in Book 22, Page 555 of the Land Records of Marlboro Vermont, and in said deed described as follows:

"Being a certain piece or parcel of land in Marlboro more particularly described as follows:

"Beginning at an iron pin set on the southerly side of the right of way of the "Higley Hill Road", so-called, which point marks the northwest corner of the premises herein conveyed; thence southeasterly along said highway along the curve of an arc having a radius of 1,150.82 feet, a distance of 95.07 feet to a point; thence south 61°17' east along said highway a distance of 256.18 feet to an iron pin; thence turning and running south 16°02' west a distance of 1,378.47 feet to an iron pin; thence turning and running south 61°30' east a distance of 1,817.33 feet to an iron pin set in a stone wall, said pin marking the northeasterly corner of the premises herein conveyed; thence turning and running south 17°56' west along a stone wall a distance of 1,004.40 feet to an iron pin, said pin marking the southeasterly corner of the premises herein conveyed; thence turning and running north 73°02' west a distance of 2,090.50 feet to an iron pin, said pin marking the southwesterly corner of the premises herein conveyed; thence turning and running north 15°51' east along a stone wall a distance of 148.35 feet to an iron pin; thence north 16°02' east along a stone wall a distance of 1,286.19 feet to an iron pin; thence north 16°35' east along a wire fence 516.53 feet to an iron pin; thence north 16°13' east along a stone wall 900.29 feet to the point and place of beginning.

"Said parcel to contain 70.097 acres be the same more or less.

"Meaning and intending to convey a part of the land and premises conveyed to Karen E. Baker, Trustee, by warranty deed of Robert G. Elliott, Jr., Donald E. Elliott and Berte M. Evans, dated April 12, 1972, to be recorded in the Marlboro Land Records, to which deed and the record thereof and the deeds, instruments and records therein or thereby referred to further reference may be had for a more particular description of the premises hereby conveyed.

"Also meaning and intending to convey a portion of the premises conveyed to Robert G. Elliott and Bertha Elliott by warranty deed of Walter S. Freeman and Eva A. Freeman dated April 16, 1943 and recorded in Volume 19, Page 92 of the Marlboro Land Records.

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SCHEDULE B

Meaning and intending to hereby convey all and the same lands and premises as were conveyed to the within Grantor by Warranty Deed dated December 10, 1985, recorded December 17, 1985, Book 27, Page 385 of the Marlboro Land Records and being further described as follows:

Beginning at a point in a stonewall, which point marks the northwesterly corner of the within conveyed premises and the southwesterly premises now or formerly of Zanke; thence along lands now or formerly of Zanke on a course of south 74° 55 min. 0 sec. east a distance of 197.8 feet more or less to a point; thence along other lands of the Grantor on a course of south 16° 58 min. 00 sec. west a distance of 860.5 feet more or less to a point; thence along other lands of the Grantor on a course of north 51° 30 min. 00 sec. west a distance of 205.0 feet more or less to a point of intersection with a stonewall; thence along said stonewall, which marks the town line between Marlboro and Wilmington on a course of north 16° 35 min. west a distance of 516.53 feet more or less to a point of intersection with another stonewall; thence continuing along the stonewall and the Wilmington Town line on a course of north 17° 37 min. east a distance of 422.8 feet more or less to point and place of beginning. Containing by estimation 4.1 acres more or less.

In addition, also conveying to the Grantee herein, his heirs and assigns a Right of Way for all purposes, in common with the Grantor, his heirs and assigns, which Right of Way is described as follows:

Beginning at a point; which point marks the southeasterly corner of lands now or formerly of Zanke and the northeasterly corner of lands conveyed in this document to Lavin; thence on a course of north 15° 07 min. east a distance of 437.3 feet more or less to a point of intersection with the Right of Way limits of Higley Hill Road, so-called; thence along the southerly Right of Way limits of Higley Hill Road a distance of 50 feet to a point. Thence along other lands of the Grantor on a course of 16° 02 min. 00 sec. west a distance of 1378.47 feet more or less to a point; thence on a course of north 51° 30 min. 00 sec. west a distance of 50 feet more or less to a point which marks the southeasterly corner of the premises herein conveyed to Lavin; thence on a course of north 16° 58 min. east a distance of 860.5 feet more or less to the point and place of beginning.

This conveyance is subject to the terms and conditions of the State of Vermont Deferral Permit numbered DE-2-3219.

Notice of permit requirements. In order to comply with applicable state Rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the lot of land described in this deed if the use or useful occupancy of that structure or building will require the installation of or connection to a potable water supply or wastewater system, without first complying with the applicable Rules and obtaining any required permit. Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved.

**Town Clerk's Office**  
Marlboro, Vermont  
Received & Recorded

Date November 12, 2020 12:44 PM

Book 65 Page 160

Attest

Ann B. Lyle  
Asst. Town Clerk

Vermont Property Transfer Tax  
32 V.S.A. Chap. 231

— ACKNOWLEDGMENT —

Return Rec'd.

Return No.

Signed

Date

105/1164  
Ann B. Lyle Asst. Clerk  
November 12, 2020

John and Diana McKay  
3 Lot Subdivision, Higley Hill Road, Marlboro, Vermont  
Right of Way and Road Maintenance Agreement

#### RIGHTS OF WAY and ROAD MAINTENANCE AGREEMENT

This Rights of Way and Road Maintenance Agreement (the "Agreement") is hereby made effective as the date set forth below by JOHN McKAY and DIANA McKAY, of Brattleboro, Vermont, (collectively "Grantor") regarding a certain piece of real property located in Marlboro, Windham County, State of Vermont, together with all buildings, improvements, easements and appurtenances thereon (the "Real Property"), and more particularly described in the Warranty Deed of Robert G. Elliot, Jr. to the Grantor dated December 31, 1996 and recorded on January 6, 1997 in Volume 38, Page 35 of the Marlboro Land Records.

#### RECTIALS

WHEREAS, the Grantor, their heirs, successors and assigns, is JOHN McKAY and DIANA McKAY.

WHEREAS, the Grantor, their heirs, successors and assigns, has created and established a three (3) lot subdivision (the "Lot" or collectively the "Lots") located along Higley Hill Road, Marlboro, Vermont at the Real Property (the "Subdivision").

WHEREAS, the Lots are served by Common Roadway (the "Road") which shall travel across the Real Property and the Lots.

WHEREAS, the Grantor, their heirs, successors and assigns, wishes to grant certain Rights of Way across the Real Property and the Lots along the Road for access by foot and by all means of transportation.

WHEREAS the Grantor, their heirs, successors and assigns, wishes to make certain covenants and to memorialize the same by this Agreement regarding said Rights of Way and the manner in which Road is constructed, maintained, repaired, improved, kept free from snow and debris, and otherwise kept in passable condition for the benefit of the Grantor, their heirs, successors and assigns, and all subsequent Owners, and the manner in which all of the ordinary and extraordinary costs, fees, and expenses for said construction, improvement, repair and maintenance shall be funded and paid.

IT IS THEREFORE AGREED, in consideration of the mutual covenants herein contained and other good and valuable consideration, as follows:

Section 1. Lots. A "Lot" shall be defined as one (1) of the three (3) lots within the Subdivision, with or without a dwelling on it. Two (2) or more Lots owned by the same Owner shall not be joined or otherwise combined for the purpose of the reducing the number of Lots under this Agreement.

Section 2. Right of Way. Each Lot shall have a Right of Way across the Real Property and the other Lots within the Subdivision for access by foot and by all means of transportation consistent with and as depicted in the Subdivision Plan, Three Lot Subdivision, Land of John McKay, Higley Hill Road, Marlboro, Vermont by Bell Engineering, dated 10/08/06 and

Amended 12/06/06 (the "Subdivision Plan"), which shall be recorded in the Marlboro Land Records as soon as practicable after execution by the Grantor.

Section 3. Association. There is hereby created an unincorporated association (the "Association") of Lot Owners for the purpose of managing the construction, maintenance, repair, improvement of the Road serving the Lots. The Owners of each Lot shall automatically become members of the Association. Each Lot shall be entitled to one (1) vote in the Association's affairs.

Section 4. Cost of Road Maintenance; Common Usage. Subject to the terms of Section 5 below, the Owner of each of the three (3) lots within the Subdivision shall share equally in the costs of maintenance, repair, improvement, snow removal, debris removal and all other work necessary to keep the Road open and operational (the "Common Costs"). The Common Costs shall apply to the portion of the Road that is used in common or jointly by the Owners as depicted on the Subdivision Plan. Any portion of the Road that is not used by two (2) or more Owners shall not be included in calculation of the Common Costs and shall be the sole and exclusive responsibility of the Lot Owner who uses said portion. The total yearly cost attributable to each Lot shall be calculated by dividing the total yearly cost of maintaining, repairing and improving the Road by the number of Lots. The Owners' Association shall have the right to place a lien upon the estate or interest in any Owner for the payment of the portion of the common expenses chargeable against such Owner which remains unpaid after such portion has become due and payable. In addition, each Owner shall be personally liable for all common expenses attributed to his/her/its ownership herein, and any of the Owner's portion of the common expenses not paid within thirty days after the same shall become due and payable, shall bear interest at the legal rate until such time as it is paid. The Owners' Association shall also be entitled to levy against the delinquent Owner the costs and reasonable attorney's fees resulting from collection. The lien provided for in this paragraph is prior to any lien or encumbrance subsequently arising or created. The lien provided for in this paragraph may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Owners by the trustees. In the foreclosure action, the Owner's Association, or their agent, are entitled to become a purchaser at the foreclosure sale on behalf of the Owners. Suit to recover for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing payment of the same.

Section 5. No Obligation Until Use Commences. No Owner shall be obligated to pay any Common Costs until such time as they commence use (the "Use") of the Lot which shall be defined as follows: (a) occupying the Lot for the purpose of part-time, seasonal or temporary housing; or (b) clearing, logging, excavating, improving, or other activity upon the land; or (c) commencement of construction of a dwelling or other structure on the Lot. All such Owners that have commenced Use of their Lot(s) shall be responsible for Common Costs.

Section 6. Meeting of the Association. The Owners shall meet once a year, or more frequently if deemed necessary, to establish a budget for snow removal, repair, maintenance and improvement of the Road, to hire contractors (except as set forth below), to establish the amount of the contribution required from the Owners, to set up trustee bank accounts, to establish reserve accounts as required, and to pay the costs of said snow removal, repair, maintenance and improvement of the Road. The Owners shall keep accurate financial records and shall make them available to all Owners at each annual meeting, and at such other times as are reasonably requested by an Owner.

Section 7. Place and Time of Association Meetings. All meetings of Owners shall be held in the Town of Marlboro with written notice given to each Owner of the date, time and place of such meeting by first class mail at least thirty (30) days prior to the meeting, except in case of

emergency. The agenda for the meeting shall also be stated in the notice. It shall be the responsibility of each Owner to provide the other Owners with a current mailing address for this purpose.

Section 8. Recording. This Agreement shall be recorded in the Marlboro Land Records as soon as practicable after execution by the Grantor.

Section 9. Heirs, Successors and Assigns. This Agreement shall be binding upon the Grantor, their heirs, successors, assigns, executors, and administrators.

Section 10. Covenants to Run with Land. This Agreement and the obligations contained herein shall run with the land.

Section 11. Vermont Law. The terms of this Agreement shall be construed under the laws of the State of Vermont.

Section 12. Amendment. This Agreement shall not be amended without the written consent of the Grantor, their heirs, successors and assigns.

IN WITNESS WHEREOF, Grantor sets their hand and seal this 29 day of April, 2019.

GRANTOR

John McKay [L.S.]  
JOHN McKAY

Diana McKay [L.S.]  
DIANA McKAY

STATE OF VERMONT  
WINDHAM COUNTY, SS.

This 29 day of April, 2019, before me personally appeared JOHN and DIANA McKAY who are known to me or otherwise properly identified, and they acknowledged this instrument, by them sealed and subscribed, to be their free act and deed.

Celia  
Vermont Notary Public  
Printed Name: Celia Dugan  
Commission Expires: 1/31/2019  
Commission No: 000045

63 / 291

emergency. The agenda for the meeting shall also be stated in the notice. It shall be the responsibility of each Owner to provide the other Owners with a current mailing address for this purpose.

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IN WITNESS WHEREOF, Grantor sets their hand and seal this 29 day of APRIL, 2019.

GRANTOR

John McKay [L.S.]  
JOHN MCKAY

Diana McKay [L.S.]  
DIANA MCKAY

STATE OF VERMONT  
WINDHAM COUNTY, SS.

This 29 day of APRIL, 2019, before me personally appeared JOHN and DIANA MCKAY who are known to me or otherwise properly identified, and they acknowledged this instrument, by them sealed and subscribed, to be their free act and deed.

**Town Clerk's Office**  
**Marlboro, Vermont**  
**Received & Recorded**

Date May 8, 2019 11:05AM

Book 103 Page 288

Attest

Erin Blum  
Asst Town Clerk

Chris Dugan  
Vermont Notary Public

Printed Name: Chris Dugan

Commission Expires: 1/31/2021

Commission No: 000045