

Kathleen A. Reagan
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COPY

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kar@kathleenreaganlaw.com

July 6, 2017

VIA COURIER

Tara Shaw, Town Clerk
Plympton Town Hall
5 Palmer Road
Plympton, MA 02367

VIA COURIER

Tricia Detterman, Assistant Town Clerk
Plympton Town Hall
5 Palmer Road
Plympton, MA 02367

VIA COURIER FOR HAND DELIVERY TO

Robert Keating, Zoning Enforcement Officer
Plympton Town Hall
5 Palmer Road
Plympton, MA 02367

**IN RE: ORDER TO CEASE AND DESIST VIOLATIONS OF TOWN OF PLYMPTON
ZONING BYLAWS – 0 WINNETUXET ROAD, PLYMPTON, MA- STORAGE YARD**

RESPONSE TO: Robert Keating, Zoning Enforcement Officer
Letter dated May 4, 2017

RESPONDENT: Mr. Gene Beliveau, Manager
Plymouth County Paving, LLC
AKA PCP Realty Trust
376 Main Street
Plympton, MA 02367

Dear Ms. Shaw, Ms. Detterman and Mr. Keating:

Enclosed for filing with regard to the above matter, please find the following documents:

1. Application on Appeal, in duplicate with attachments;
2. 2 checks as required-
 - \$100.00 to Town of Plympton – Application fee for ZBA Determination
 - \$80.00 to Town of Plympton for advertising fee;

Please note that the payment for the Certified Letter Postage is being enclosed in the Application for Special Permit for the same parcel of land, 0 Winnetuxet Road, Plympton, MA. The \$35.00 cost for the Certified Abutter's List has already been paid, and a copy of the certified Abutter's List is attached to this application.

Please feel free to contact this office with any questions or concerns.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Reagan', written in a cursive style.

Kathleen A. Reagan, Esq.

KAR/jmm

Enclosure

Cc: Outback Arms, LLC

e:\data\kathleendocuments\outback arms- zoning\correspondence\misc\6.30.17 ltr to town clerk w app.storage yard.docx

TOWN OF PLYMPTON

BOARD OF APPEALS



Application For (check one):

Variance _____

Special Permit _____

Appeal ☒ _____

Comprehensive Permit _____

Date

6/29/17

Name of Applicant

Gene Beliveau

PCA Realty Trust

Received by Town Clerk:

RECEIVED

JUL 06 2017

TOWN CLERK'S OFFICE
PLYMPTON

Case Number: 17-0706 AP#2

TOWN OF PLYMPTON BOARD OF APPEALS RULES

(Revised March 15, 2017)

In order to be considered a valid application, your application must be submitted to the Town Clerk's office with the appropriate fees as stated below and must comply with all of the following rules:

1. The fees are as follows and will require 4 checks:

_____ **Check 1**=\$100.00 Application Fee for ZBA Determination

Check made out to: **TOWN OF PLYMPTON**

_____ **Check 2**=\$80.00-Advertising Fee

Check made out to: **TOWN OF PLYMPTON**

_____ **Check 3**=\$35.00-Certified Abutter's List (from Assessor's Office)

Check made out to: **TOWN OF PLYMPTON**

4 _____ **Check 4**-Abutters Certified Letter Postage Cost

_____ # Abutters x \$6.59*

\$ _____ Check made out to: **TOWN OF PLYMPTON**

Subject to prices of US Post Office

The applicant is responsible for any other fees that may apply to this case.

2. All applications *must be submitted in duplicate* on this form or equivalent. All fields must be completed.
3. The location of the property in question must be described by Assessors map and lot number, by street number if any, and by measurement from the nearest known point if no street number is available.
4. All applications shall be accompanied by a plan of the land affected, drawn to a scale of 1"=40' or 1"=80', showing all monuments, structures, street lines, ways, and proposed structures or uses. The Board reserves the right to require that the plan be prepared by a registered land surveyor or registered professional engineer. The Board also reserves the right to waive plan requirements as appropriate.
5. The applicant shall provide the names and addresses of direct abutters, owners of land directly opposite on any street or way, and abutters to the abutters within three hundred feet of the property line. The Board reserves the right to require that the abutters list be certified by the Board of Assessors. The Board also reserves the right to notify persons not on the abutters list.
6. The Board may employ outside consultants if it determines by majority vote that it requires outside technical advice unavailable from Town employees to review an application. Whenever possible it shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of the consultant fees by the applicant.
Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable fee for the employment of outside consultants chosen by the Board alone. A review fee may be imposed only if the work is in connection with the applicant's specific project, and all written results and report are made part of the record before the Board.
The minimum qualifications for consultants shall consist of either an educational degree in a related field or three or more years of practice in a related field.
Each review fee shall be deposited in a special account established by the Town Treasurer pursuant to MGL Ch44, Section 53G. Funds from the special account may be expended only for the purposes described above.

Upon the Town Clerk's receipt of your properly completed application and fee the Board will schedule, advertise and hold a Public Hearing on your application.

After the Public Hearing the Board will rule on your application.

TOWN OF PLYMPTON BOARD OF APPEALS
APPLICATION

This is an application for: (complete only one of the following):

1. A Variance from Section _____ of the Zoning Bylaw for _____
2. A Special Permit under Section _____ of the Zoning Bylaw for _____
3. An Appeal of a Zoning Ruling by the Building Inspector or planning agency,
dated May 4, 2017 (a copy of which must be attached)
4. A Comprehensive Permit Application for low or moderate income housing under MGL Chapter **40B** _____

Date 6/29/17

Name of Applicant Gene Beliveau

Name of Property Owner (if a corporation or trust, also give names of beneficial owners) PCP Realty Trust LLC, Gene Beliveau

Address of Applicant for Public Hearing Notice 93 Upland Road, Plympton, MA

Phone 508-209-7370 E-Mail 93uplandrd@comcast.net

Property Location: Assessor's Map # 21 Lot # 1-24

Street Address or Measurement from known point 0 Winnetuxet Road

Lot Area 27.2 AC Frontage 280 Depth 1600

Applicant's interest in land was acquired on (date) 1/5/2005

From Peter Mead, John Mead, & Stewart Grossman

Complete statement of nature of this application (may be attached):

Please see attached letter dated May 30, 2017

Names and address of Abutters (may be attached)

Applicant will provide list of abutters

A hearing is requested in the above matter:

Applicant's Signature _____ Date _____

TOWN OF PLYMPTON BOARD OF APPEALS
APPLICATION

This is an application for: (complete only one of the following):

1. A Variance from Section _____ of the Zoning Bylaw for _____
2. A Special Permit under Section _____ of the Zoning Bylaw for _____
3. An Appeal of a Zoning Ruling by the Building Inspector or planning agency,
dated _____ (a copy of which must be attached)
4. A Comprehensive Permit Application for low or moderate income housing under MGL Chapter 40B _____

Date 6-29-17

Name of Applicant Gene Belivrao

Name of Property Owner (if a corporation or trust, also give names of beneficial owners) PCP LARRY TRUST LLC GENE BELIVRAO

Address of Applicant for Public Hearing Notice 93 UPLAND ROAD PLYMPTON

Phone 508 209 7370 E-Mail 93UPLANDRD@COMCAST.NET

Property Location: Assessor's Map # 21 Lot # 1-24

Street Address or Measurement from known point 0 WINDFUTURIST RD,

Lot Area 27.24c Frontage 280 Depth 1600

Applicant's interest in land was acquired on (date) 1-5-2005

From PETER MEAD, JOHN MEAD & STEWART GROSSMAN

Complete statement of nature of this application (may be attached):

Names and address of Abutters (may be attached)

A hearing is requested in the above matter:

Applicant's Signature Gene Belivrao Date 06-29-2017

May 4, 2017

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Mr. Gene Beliveau
376 Main Street
Plympton, MA 02367

Mr. Gene Beliveau
Manager
Plymouth County Paving, LLC
376 Main Street
Plympton, MA 02367

**ORDER TO CEASE AND DESIST VIOLATIONS
OF TOWN OF PLYMPTON ZONING BYLAWS
0 WINNETUXET ROAD, PLYMPTON, MA**

Dear Mr. Beliveau:

You are hereby ordered to **Cease and Desist** from your use of the property located at 0 Winnetuxet Road, Plympton, Massachusetts, (Assessors M21 B1 L24) for purposes of a contractor's yard and commercial vehicle storage in connection with your paving business, Plymouth County Paving, LLC.

I have reviewed the property on Google Earth and I have reviewed Plymouth County Paving's website and I understand that you and Plymouth County Paving, LLC are using the property located 0 Winnetuxet Road for the storage and stockpiling of mounds of earth and gravel for use in connection with a commercial paving business and that such materials are moved to and from the site from time-to-time. I have also observed that the subject property is being used for the storage of more than three commercial vehicles and other equipment associated with said business. The subject property is located within the Town's Agricultural-Residential Zoning District. Commercial uses, such as contractor's yard and commercial vehicle storage, are not allowed by right in the A-R District. In fact, contractor's yard use is prohibited in the A-R District and the storage of more than three commercial vehicles is only allowed by special permit, which you do not have.

Therefore, you and all persons acting on your behalf or in concert with you are hereby ORDERED to IMMEDIATELY CEASE AND DESIST each of the activities described above as they violate the Plympton Zoning Bylaws. This means that all use of the property for contractor's yard and commercial vehicle storage must cease; the trucking of earth, gravel and other materials to and from the property must cease; and all of the materials vehicles and equipment associated with such use must be removed from the Property, forthwith.

Please be advised that, if you are aggrieved by this Order, it may be appealed in accordance with M.G.L. c. 40A, §§8,15 and Section 2.4.2 of the Town's Zoning Bylaw; however any such appeal would not excuse your immediate compliance with the order as set forth herein.


Robert Karling
Zoning Enforcement Officer

Kathleen A. Reagan
Attorney At Law LLC
400 Crown Colony Drive, Suite 601
Quincy, MA 02169

Tel: 617-773-1597
Fax: 617-773-1557

www.kathleenreaganlaw.com
kar@kathleenreaganlaw.com

May 30, 2017

VIA COURIER

Tricia Detterman, Assistant Town Clerk
Plympton Town Hall
5 Palmer Road
Plympton, MA 02367

VIA COURIER FOR HAND DELIVERY TO

Robert Keating, Zoning Enforcement Officer
Plympton Town Hall
5 Palmer Road
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IN RE: ORDER TO CEASE AND DESIST VIOLATIONS OF TOWN OF PLYMPTON
ZONING BYLAWS – 0 WINNETUXET ROAD, PLYMPTON, MA –
STORAGE YARD

RESPONSE TO: Robert Keating, Zoning Enforcement Officer
Letter dated May 4, 2017

RESPONDENT: Mr. Gene Beliveau, Manager
Plymouth County Paving, LLC
AKA PCP Realty Trust
376 Main Street
Plympton, MA 02367

Dear Ms. Detterman, Mr. Keating and Plympton Zoning Board:

The respondent's appeal contests each allegation on the merits. This property is not being used as a "contractor's yard as it is defined. The commercial use definition in the Plympton by laws requires such use by a "building contractor" or a "general contractor" or "subcontractor" none of which is Plymouth Paving LLC, see page 65 of the Plympton Zoning By laws. Further, the storage of soil and gravel, and woodchips, trees, branches, loam, and vehicles used in forestry and forestry land management is consistent with the agricultural use of the property as primary use and accessory, contiguous parcel use. See attached 61A certificate of the surrounding land 25 acre parcel contiguous to and accessory use for, forestry products, for which these parcels are in active forestry use. This zoning order violates the "Right To Farm"

by laws of Plympton, including Municipal By Law Article XXV, pages M.28-M30. Please also note that the storage of vehicles and equipment in use on an active farm is an exempted use for storage of these products and equipment. These items may also be used off site, but that does not take away from their use on site for forestry purposes. In the alternative, the Respondent requests a variance to allow him the use of the property as it is being used.

Sincerely,



Kathleen A. Reagan

KAR/peg

Enclosure: Certificate for Chapter 61/61A Forest Land

Cc: Tara Shaw, Plympton Town Clerk (Via Courier);

Dick Harlfinger, Plympton Agricultural Commission, Chairperson (Via Courier)

Colleen Morin, Plympton Town Treasurer/Collector (Via Courier)

Gene Beliveau

dc



Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Conservation and Recreation

Certificate for Chapter 61/61A Forest Lands

Case Number 240-9237

Owner(s) PCP Realty Trust, c/o David Smith, Trustee

Mailing Address 376 Main Street, Plympton, MA 02367

Pursuant to Chapter 61 of the General Laws, I/We request 25.46 acres of forestland of the 27.2 acres of land covered by a deed recorded in the Plymouth County Registry of Deeds in Book 29798, Page 147, for property located in the Town/City of Plympton that the State Forester issue a Certificate of Management to cover those forested acres. The tract can further be described as Map # 21, Lot # 1-24, on the Town/City Assessors Maps. Excluded from certification are 1.74 acres, which are described as follows (continue on back page if additional space is needed):

1.74 acres that includes buildings and area used by paving company. See Attached Map.

I/We have read the various provisions of Chapter 61/Chapter 61A as well as the Rules and Regulations under which said Chapter is administered and agree to comply with the same.

Submitted the 28 day of June year of 2011.

Signed by Owner(s)

[Signature] TRUSTEE [Signature]

DEPARTMENT USE ONLY

The Department of Conservation and Recreation, 251 Causeway Street, Boston, Massachusetts, acting by and through its State Forester pursuant to the authority of Chapter 61/Chapter 61A of the General Laws hereby certifies that the described land is being managed under a planned program to improve the quantity and quality of a continuous forest crop. This certifies that the above listed acres of forestland, owned by the above, are being managed under an approved Forest Management Plan.

Certification is in effect from January 1, 2012, to December 31, 2021.

Signed by State Forester

[Signature]

Date 7/12/11

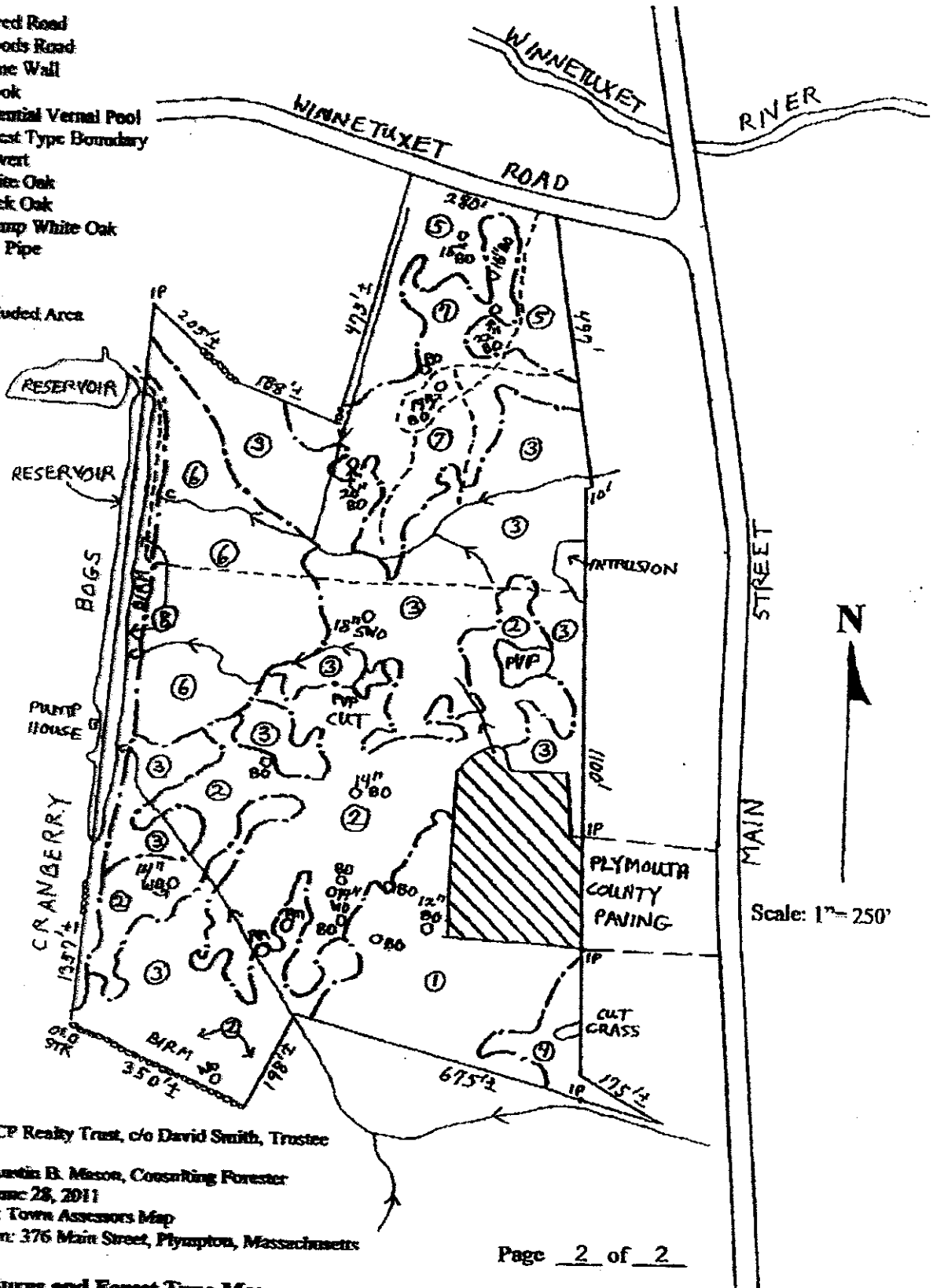
ASSESSOR'S USE

The Board of Assessors have recorded the above acres of Classified Forest Land, and will cause evidence of a lien to be duly recorded in the Registry of Deeds. No recording is necessary for a recertification.

Signed by Chairman

[Signature]

Date

 Excluded Area

Property of: PCF Reaky Trust, c/o David Smith, Trustee

Prepared by: Austin B. Mason, Consulting Forester

Date: June 28, 2011

Source: Town Assessors Map

Location: 376 Main Street, Plympton, Massachusetts

Town of Plympton Assessing Department
5 Palmer Road
Plympton, MA 02337

Board of Assessors
Ethan C. Stiles
Jocelyn A. Anderson
Richard E. Nordahl

RECEIVED
JUN 29 2017
ASSESSORS OFFICE
PLYMPTON, MA

Telephone: (781) 585-3227
Extension: 309/310
FAX: (781) 582-1505

Deborah Stuart
Assessor/Appraiser
assessor@town.plympton.ma.us

REQUEST FOR

ABUTTERS LIST

CK 1213
6/29/17

MAP 21 BLOCK 1 LOT 8-24

PARCEL ADDRESS REQUESTED 0 WINNETUXET ROAD ⁶¹⁷⁻⁶⁸⁸⁻⁵²⁴³

RECORD OWNER DAVID SMITH TRUSTEE POPPHEALTH TRUST

CONTACT PERSON CARA BELIVANT TELEPHONE# 508 209 7370

MAILING ADDRESS 93 UPLAND ROAD

SIGNATURE [Signature] DATE 6/29/17

COST: \$35.00 FOR EACH PARCEL REQUESTED

- * 100'- Board of Selectmen
- * 100'- Conservation Commission
- * 200'- Wetlands Protection Bylaw
- * 300'- Zoning Board of Appeals
- * 300'- Planning Board

This is to certify that at the time of the last assessment for taxation made by the Town of Plympton, the names and addresses of the parties assessed as adjoining owners to the parcel land shown as above written.

[Signature]
Deborah Stuart

7/5/17
Date

TOWN OF PLYMPTON
ABUTTERS LIST
PARCEL 21-1-24

21/ 1/ 2/ 0/	392 MAIN ST	BROWN DANE C & AMY ESTATE OF	C/O LLANES MICHELE	392 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 3/ 0/	380 MAIN ST	COLBY, GEORGE E. & SANDRA J. TTE	GEORGE & SANDRA COLBY TRUST	380 MAIN ST	PLYMPTON, MA 02367
21/ 1/ 4/ 0/	376 MAIN ST	BELIVEAU GENE S TR	PCP REALTY TRUST	376 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 5/ 0/	372 MAIN ST	HAMILTON, RYAN J		372 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 6/ 0/	368 MAIN ST	NORRIE EDMUND A		368 MAIN ST.	PLYMPTON, MA 02367
21/ 1/ 6/ A/	364 MAIN ST	NORRIE EDMUND A	NORRIE A DEBORAH	364 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 8/ 0/	352 MAIN ST	PERRY ROBERT D & NICOLE M, TTEES	352 MAIN ST REALTY TRUST	5 SNAPIT RD	CARVER, MA 02330
21/ 1/ 10/ 0/	11 WINNETUXET RD	SPRINGER MAUREEN A		P.O. BOX 209	PLYMPTON, MA 02367
21/ 1/ 13/ 0/	11 WINNETUXET RD	SANTOS ROBERT J	SANTOS BARBARA P	11 WINNETUXET RD.	PLYMPTON, MA 02367
21/ 1/ 14/ 0/	15 WINNETUXET RD	MATHIAS JOHN D		15 WINNETUXET RD.	PLYMPTON, MA 02367
21/ 1/ 14/ A/	0 WINNETUXET RD	MATHIAS JOHN D		15 WINNETUXET RD	PLYMPTON, MA 02367
21/ 1/ 14/ B/	11 WINNETUXET RD	SANTOS ROBERT J	SANTOS BARBARA P	11 WINNETUXET RD.	PLYMPTON, MA 02367
21/ 1/ 23/ 0/	0 WINNETUXET RD	MATHIAS JOHN D		15 WINNETUXET RD	PLYMPTON, MA 02367
21/ 3/ 7/ 0/	0 WINNETUXET RD	TOWN OF PLYMPTON		5 PALMER RD	PLYMPTON, MA 02367
21/ 3/ 8/ 0/	0 MAIN ST	TOWN OF PLYMPTON		5 PALMER RD	PLYMPTON, MA 02367
21/ 5/ 10/ 0/	357 MAIN ST	NEVES MANUEL T JR	NEVES SHEILA	355-357 MAIN ST	PLYMPTON, MA 02367
21/ 5/ 14/ 0/	373 MAIN ST	JAFFERIAN, DEAN & SUZANNE		373 MAIN ST	PLYMPTON, MA 02367
21/ 5/ 14/ A/	363 MAIN ST	REID RAYMOND A, II	REID HEATHER	373 MAIN ST.	PLYMPTON, MA 02367
21/ 5/ 15/ 0/	387 MAIN ST	ZARELLA JACKI		387 MAIN ST.	PLYMPTON, MA 02367
21/ 5/ 16/ 0/	389 MAIN ST	MCDERMOTT PAUL V	MCDERMOTT NATALIE G	389 MAIN ST.	PLYMPTON, MA 02367
21/ 5/ 20/ 0/	355 MAIN ST	NEVES MANUEL T JR	NEVES SHEILA	355-357 MAIN ST	PLYMPTON, MA 02367
21/ 5/ 22/ 0/	0 MAIN ST	HARJU BROTHER CRANBERRIES INC		801 PLYMOUTH ST	MIDDLEBORO, MA 02346
24/ 1/ 20/ 0/	0 MAIN ST	GASS SHANA MIRIAM	C/O GASS ROBERT	36 HARVEST CIRCLE	HOLDEN, MA 01520

Easy Peel® Labels
Use Avery® Template 5160®

21/ 1/ 2/ 0/
BROWN DANE C & AMY
ESTATE OF
C/O LLANES MICHELE
392 MAIN STREET
PLYMPTON, MA 02367

21/ 1/ 5/ 0/
HAMILTON, RYAN J
372 MAIN STREET
PLYMPTON, MA 02367

21/ 1/ 8/ 0/
PERRY ROBERT D & NICOLE M,
TTEES
352 MAIN ST REALTY TRUST
5 SNAPIT RD
CARVER, MA 02330

21/ 1/ 14/ 0/
MATHIAS JOHN D
15 WINNETUXET RD.
PLYMPTON, MA 02367

21/ 1/ 23/ 0/
MATHIAS JOHN D
15 WINNETUXET RD
PLYMPTON, MA 02367

21/ 5/ 10/ 0/
NEVES MANUEL T JR
NEVES SHEILA
355-357 MAIN ST
PLYMPTON, MA 02367

21/ 5/ 15/ 0/
ZARELLA JACKI
387 MAIN ST.
PLYMPTON, MA 02367

21/ 5/ 22/ 0/
HARJU BROS CRANBERRIES INC
801 PLYMOUTH ST
MIDDLEBORO, MA 02346

Feed Paper  Bend along line to
expose Pop-up Edge™

21/ 1/ 3/ 0/
COLBY, GEORGE E. & SANDRA J. TTE
GEORGE & SANDRA COLBY TRUST
380 MAIN ST
PLYMPTON, MA 02367

21/ 1/ 6/ 0/
NORRIE EDMUND A
368 MAIN ST.
PLYMPTON, MA 02367

21/ 1/ 10/ 0/
SPRINGER MAUREEN A
P.O. BOX 209
PLYMPTON, MA 02367

21/ 1/ 14/ A/
MATHIAS JOHN D
15 WINNETUXET RD
PLYMPTON, MA 02367

21/ 3/ 7/ 0/
TOWN OF PLYMPTON
5 PALMER RD
PLYMPTON, MA 02367

21/ 5/ 14/ 0/
JAFFERIAN, DEAN & SUZANNE
373 MAIN ST
PLYMPTON, MA 02367

21/ 5/ 16/ 0/
MCDERMOTT PAUL V
MCDERMOTT NATALIE G
389 MAIN ST.
PLYMPTON, MA 02367

24/ 1/ 20/ 0/
GASS SHANA MIRIAM
C/O GASS ROBERT
36 HARVEST CIRCLE
HOLDEN, MA 01520

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BELIVEAU GENE S TR
PCP REALTY TRUST
376 MAIN STREET
PLYMPTON, MA 02367

21/ 1/ 6/ A/
NORRIE EDMUND A
NORRIE A DEBORAH
364 MAIN STREET
PLYMPTON, MA 02367

21/ 1/ 13/ 0/
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SANTOS BARBARA P
11 WINNETUXET RD.
PLYMPTON, MA 02367

21/ 1/ 14/ B/
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SANTOS BARBARA P
11 WINNETUXET RD.
PLYMPTON, MA 02367

21/ 3/ 8/ 0/
TOWN OF PLYMPTON
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PLYMPTON, MA 02367

21/ 5/ 14/ A/
REID RAYMOND A, II
REID HEATHER
373 MAIN ST.
PLYMPTON, MA 02367

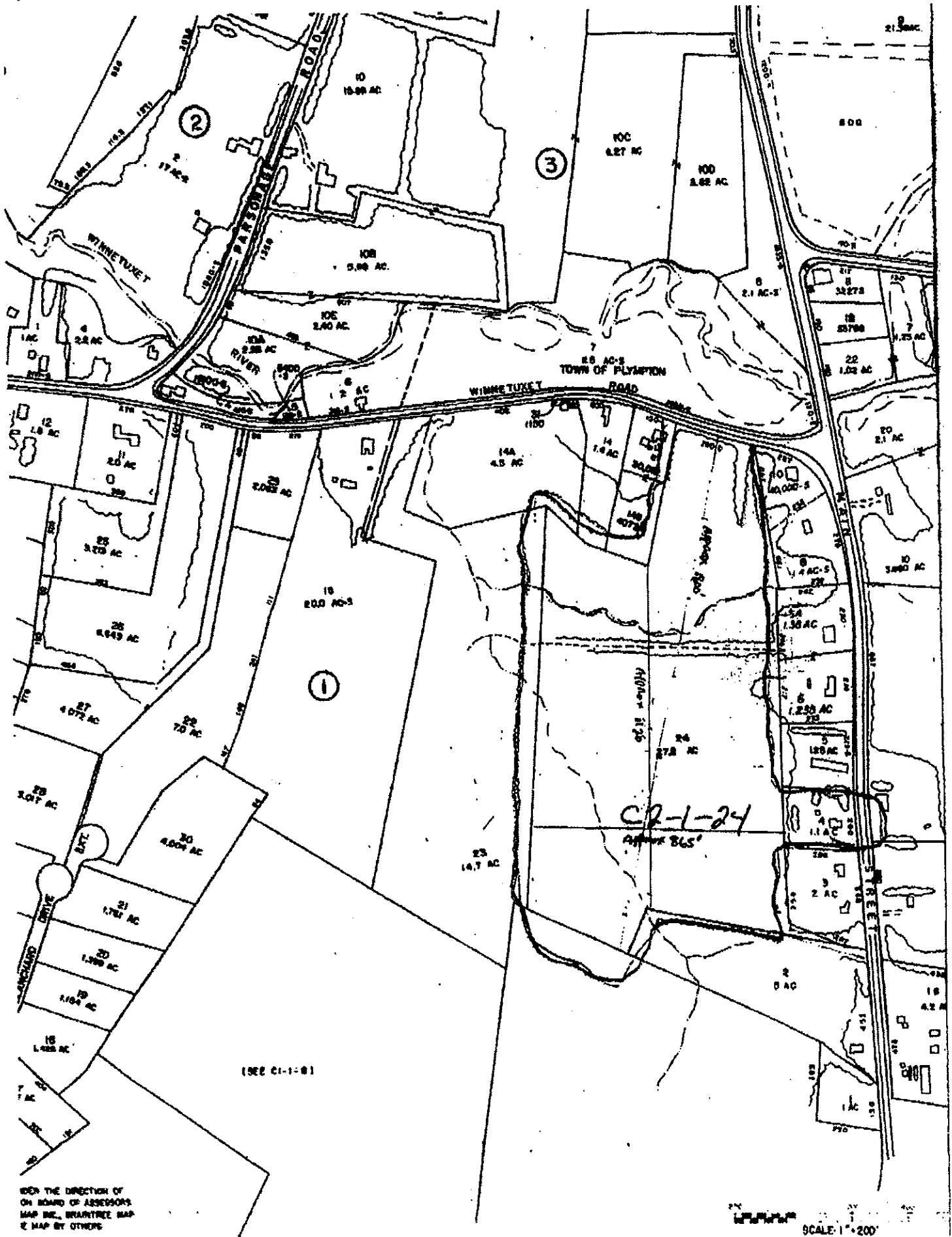
21/ 5/ 20/ 0/
NEVES MANUEL T JR
NEVES SHEILA
355-357 MAIN ST
PLYMPTON, MA 02367

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ON BOARD OF ASSESSOR'S
MAP INEL. BRYANTREE MAP
E MAP BY OTHERS

SCALE 1" = 200'