



# City of New Bedford ZBA VARIANCE APPLICATION

CASE # 4220

## 1. SUBMITTAL CHECKLIST

The following documentation must be submitted, in duplicate (1 Original and 11 Copies):

Have you included...			Planning staff review finds...	
Yes	No		Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Completed and Signed Application</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	An <u>Existing Conditions Site Plan</u> , drawn to a scale not less than 1 inch: 40 feet, identifying positioning of existing structures must be provided. Your site plan must show footprint and dimensions of rear, front and side distances between structure(s) and boundary lines.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Proposed Site Plan</u> showing all proposed alterations or additions with side, front and rear set property lines identified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<u>Sub-Division Plans</u> if Applicable.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Certified Abutter's List</u> prepared by planning staff and certified by the Assessor's Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Plot Plan</u> as provided through Department of Inspectional Services or through the Assessor's Office (in person or online through parcel lookup).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Filing Fee</u> in check form made payable to the City of New Bedford.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Copy of <u>Building Permit Rejection Packet</u> (Containing Rejected Building Permit and all information submitted with Building Permit Application)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Owner's Verification</u> including owner's signature and parcel deed for all involved parcels.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Official Use Only:**

Review of submittal compliance performed by [Signature] of the city's Division of Planning.  
Staff review found the application packet to be  complete  incomplete on this date: \_\_\_\_\_

**This is page 1 of your ZBA Application BUT YOU DO NOT NEED 11 COPIES OF IT; just the original is enough.**  
Please remove the instruction pages when submitting your completed application packet but keep this as your first page.

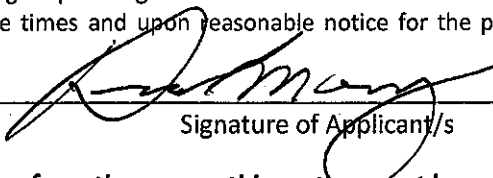
## 2. VARIANCE SPECIFICS

The undersigned petitions the New Bedford Zoning Board of Appeals [ZBA] to grant a VARIANCE in the manner and for the reasons set forth here under the provisions of the city's zoning ordinance to the following described premises:

### APPLICATION SUMMARY (PLEASE PRINT)

SUBJECT PROPERTY			
ASSESSOR'S MAP PLOT#	137	LOT(S)#	279
REGISTRY OF DEEDS BOOK:	7901	PAGE #	120
PROPERTY ADDRESS: NW Corner of Meadow Street and Acushnet Avenue			
ZONING DISTRICT: Mixed Use Business			
OWNER INFORMATION			
NAME: DPM Development Corporation			
MAILING ADDRESS: 70 Lambeth Street New Bedford, MA 02745			
APPLICANT/CONTACT PERSON INFORMATION			
NAME (IF DIFFERENT): Same as Applicant			
APPLICANT'S RELATIONSHIP TO THE PROPERTY: Check one:	OWNER <input checked="" type="checkbox"/>	CONTRACT VENDEE <input type="checkbox"/>	OTHER Describe <input type="checkbox"/>
MAILING ADDRESS (IF DIFFERENT):			
TELEPHONE #	508-993-0381		
EMAIL ADDRESS:			

By signing below, I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give planning division staff and ZBA members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.

  
\_\_\_\_\_  
Signature of Applicant/s

Jan 19, 2016

\_\_\_\_\_  
Date

**If the applicant differs from the owner, this section must be completed/signed by the property owner/s:**

I hereby authorize the applicant represented above and throughout this application to apply and to represent my/our interests on my/our behalf for the relief requested herein for the premises I/we own noted as "property address" above and presented throughout this application. Furthermore, by signing this application I/we acknowledge having read and understood this application and the accompanying instructions and information. If petition is granted, I/we understand the approvals are specific to the plans submitted, unless the Board states otherwise and that if granted, that the variance must be recorded and acted upon within one year.

\_\_\_\_\_  
Signature of Owner/s

\_\_\_\_\_  
Date

**APPLICATION SPECIFICS**

DIMENSIONS OF LOT/S:	FRONTAGE 60 feet	DEPTH 77 feet	AREA in SQ FT 5,406 SF		
EXISTING BUILDING/S	# OF BLDGS 0	EXISTING SIZE N/A	TOTAL SQ FT BY FLOOR N/A	NUMBER OF FLOORS N/A	TOTAL SQ. FT ENTIRE STRUCTURE N/A
	# OF DWELLING UNITS 0		# OF BEDROOMS 0		
PROPOSED BUILDING/S	# OF BLDGS 1	PROPOSED SIZE 28' x 28'	TOTAL SQ FT BY FLOOR 784 SF	NUMBER OF FLOORS 2	TOTAL SQ. FT ENTIRE STRUCTURE 1568 SF
	# OF DWELLING UNITS 1		# OF BEDROOMS 3		EXTENT OF PROPOSED ALTERATIONS New Construction
EXISTING USE OF PREMISES:	Vacant Land				
PROPOSED USE OF PREMISES:	Single Family Residential				
EXPLAIN WHAT MODIFICATIONS YOU ARE PROPOSING THAT NECESSITATE THE REQUESTED VARIANCE:	Refer to the Attached Report <hr/> <hr/> <hr/>				

*If there's a commercial use existing and/or proposed, please complete the following:*

	EXISTING	PROPOSED
NUMBER OF CUSTOMERS PER DAY		
NUMBER OF EMPLOYEES		
HOURS OF OPERATION		
DAYS OF OPERATION		
HOURS OF DELIVERIES		
FREQUENCY OF DELIVERIES (Check frequency)	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER

*If you are also requesting site plan review and special permit/s from the planning board, please specify here:*

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Complete each item that is relevant to your variance request:

	Existing	Allowed/ Required	Proposed
Lot Area (sq ft)	5,406 SF	8,000 SF	5,406 SF
Lot Width (ft)	60 feet	N/A	60 Feet
Number of Dwelling Units	0		1
Total Gross Floor Area (sq ft)	0		1,568 SF
Residential Gross Floor Area (sq ft)	0		1,568 SF
Non-Residential Gross Floor Area (sq ft)	0		0
Building Height (ft)	N/A	45 Feet	26 Feet
Front Setback (ft)	N/A	20 Feet	21 Feet
Side Setback (ft)	N/A	10 Feet	12 Feet
Side Setback (ft)	N/A	12 Feet	18 Feet
Rear Setback (ft)	N/A	30 Feet	31 Feet
Lot Coverage by Buildings (% of Lot Area)	0	40%	15%
Permeable Open Space (% of Lot Area)	92%	35%	60%
Green Space (% of Lot Area)	92%	35%	60%
Off-Street Parking Spaces	0	2	2
Loading Bays	0	0	0
Number of Ground Signs			
Height of Ground Sign			
Proximity of Ground Sign to Property Line			
Area of Wall Sign (sq ft)			
Number of Wall Signs			

### 3. PARCEL LEGAL DOCUMENTATION

Title Reference to Property Book 7901, Page 120  
 (Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)

Is the applicant also the owner?  Yes  No

If no, please attach the following three items to your application and indicate they are attached:

- A notarized authorization letter on letterhead from the owner to tenant/buyer for application of this permit.

If the Applicant is Not the Owner, Provide:

- A copy of the Purchase & Sale Agreement or lease, where applicable.
- A copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

# 4. REQUIRED FINDINGS FOR GRANTING A VARIANCE

Massachusetts General Law Chapter 40A Section 10 requires the "permit granting authority" (which, in this instance is the Zoning Board of Appeals) to make ALL the following findings before a variance can be granted:

**A**

That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located.

**B**

That due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

**C**

That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw.

**D**

That desirable relief may be granted without substantial detriment to the public good.

The full text of M.G.L. Chapter 40A, Section 10 can be viewed at: <http://www.mass.gov/legis/laws/mal/>

Because the ZBA must be able to articulate each of these four findings in order to grant a variance, you must make your case as to WHY your application meets each of these four points. ***This is an extremely important question and it is recommended that you answer this VERY carefully.*** You may use an additional sheet if needed.

**A**

Describe any circumstances relating to soil conditions, shape or topography which especially affect the land or structure in question but that doesn't generally affect the zoning district in which your premises is located:

Refer to the Attached Report

**B**

Describe how circumstances unique to your land or structure would mean a substantial hardship to you if the city were to literally enforce the zoning ordinance:

Refer to the Attached Report

**C**

Describe how granting you relief would not take away from the purpose of the city's zoning ordinance:

Refer to the Attached Report

**D**

Describe why nobody else would be hurt if the city granted your requested zoning relief:

Refer to the Attached Report

# SITEC

Civil and Environmental Engineering  
Land Use Planning

SITEC, Inc.  
449 Faunce Corner Road  
Dartmouth, MA 02747  
Tel. (508) 998-2125 FAX (508) 998-7554

Unit C  
769 Plain Street  
Marshfield, MA 02050  
Tel. (781) 319-0100 FAX (781) 834-4783

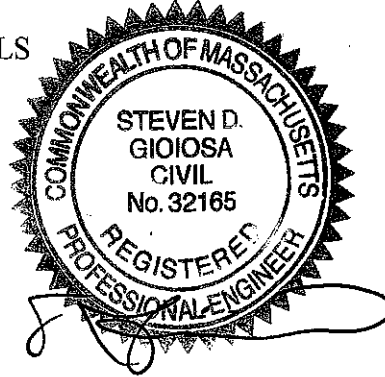
## MEMORANDUM

TO: ZONING BOARD OF APPEALS  
CITY OF NEW BEDFORD

FROM: STEVEN D. GIOIOSA, P.E.

DATE: JANUARY 19, 2016

SUBJECT: **DPM DEVELOPMENT  
VARIANCE PETITION  
MAP 137 – LOT 279  
MEADOW STREET/ACUSHNET AVENUE**



### EXISTING CONDITIONS

The subject lot is a 5,406 SF parcel located on the northwest corner of Meadow Street and Acushnet Avenue. The property has 60.00 feet of frontage on Acushnet Avenue and 82.00 feet of frontage on Meadow Street. The entire property is zoned Mixed Use Business. Within this district, the Zoning Ordinance allows a wide range of commercial uses including retail, office, recreational and restaurant together with associated commercial parking. The zoning also allows for a residential use if the parcel meets certain frontage and area requirements.

For a single family residential use, the property would need an area of 8,000 SF and a minimum of 75 feet of frontage on a public way.

### PROPOSED DEVELOPMENT

The Petitioner is proposing to construct a 28'x28' single-family dwelling on the subject property as depicted on the attached site plan. The house is proposed to be positioned with the front of the house facing Acushnet Avenue and driveway access provided on the north side of the dwelling on Acushnet Avenue. The house has been positioned on the lot in compliance with all residential setback requirements for a single family home in the Mixed Use Business District. Additionally, the Zoning allows a residential building to cover up to 40% of a corner lot. The proposed building will cover less than 15% of the lot.

With respect to the Zoning's requirement for Green Space, the project will maintain more than 60% of the lot as Open Space where the minimum required Open Space is only 35%.

## **REQUESTED ZONING RELIEF**

The Petitioner has evaluated several development options for the subject property. If a commercial use were to be proposed, a more intense use of the site would be allowed by right with a larger building footprint, zero foot front yard setback, a commercial parking lot, and minimal restrictions on lot coverage with no minimum Green Space required. After evaluating the immediate neighborhood, it was determined that a single family residential use would be more appropriate and would have a significantly lower impact on the abutting properties.

In order to be developed as a single family lot, the following variances are required:

1. Section 2700 – Dimensional Regulations  
Section 2710 – General  
Section 2720 – Table of Dimensional Regulations  
Appendix B – Minimum Lot Size  
Minimum Frontage

The Variance for lot size would be required since 8,000 SF is required for a residential use in the Mixed Use Business District and the lot contains 5,406 SF. It is important to note that for a commercial use, there is no minimum lot size requirement.

The variance for frontage is required for this residential use since the subject house is proposed to face Acushnet Avenue and the lot has 60.00 feet of frontage on Acushnet Avenue where 75 feet is required. Again, it is important to note that a commercial use on this lot would not be subject to the 75 foot frontage requirements.

The literal enforcement of the Zoning would cause a substantial hardship to the petitioner due to the shape and topographic relief of the lot. The parcel drops 7 feet from Acushnet Avenue to the westerly boundary of the property. Developing the site for a commercial use would require significant grade changes which would greatly impact the aesthetics of the adjacent neighborhood. A terracing of the site would be needed to accommodate the commercial building and parking lot for ADA compliant access. The proposed residential plan allows for a minimal grading plan by incorporating a walkout lower level on the west side of the building.

A residential use for this property would be less intrusive in the neighborhood, would preserve more open space, and would be substantially less detrimental than an alternative commercial use.

The intent of the Zoning Ordinance is to promote development that is compatible with the surrounding area. A residential use is allowed in this district subject to certain dimensional requirements. The key points for this proposal is that the proposed house is modest in size, meets all applicable setbacks to insure adequate buffers to the abutting properties and provide greater Green Space that is required. By comparison, an 8000 SF residential lot is required to maintain a minimum of 2,800 SF of Green Space. The Petitioner's plan will maintain approximately 3,300 SF.

Based on the assessment, we respectfully request you consideration of the requested relief.



I, Carlos A. Funes, Administrative Assistant to the Board of Assessors of the City of New Bedford, do hereby certify that the names and addresses as identified on the attached "abutters list" are duly recorded and appear on the most recent tax.

Date: 1/20/2016

SUBJECT PROPERTY:

MAP 137 LOT 279

LOCATION Meadow Street / Acushnet Avenue (NS Meadow Street)

OWNER'S NAME DPM Development Corporation

MAILING ADDRESS 70 Lambeth Street

CONTACT PERSON Alison Cesar, SITEC, Inc.

TELEPHONE NUMBER (508)998-2125

EMAIL ADDRESS acesar@sitec-engineering.com

REASON FOR REQUEST  
ZBA variance to construct a single family home.

CITY CLERK  
2016 JAN 21 P 2:43  
CITY CLERK'S OFFICE  
225 STATE ST, 10, MA

PLANNING  
JAN 19 2016  
DEPARTMENT

January 19, 2016

Dear Applicant,

Please find below the List of Abutters within 300 feet of the property known as NS Meadow Street (137-279) The current ownership listed herein must be checked and verified by the City of New Bedford Assessor's Office. Following said verification, the list shall be considered a Certified List of Abutters.

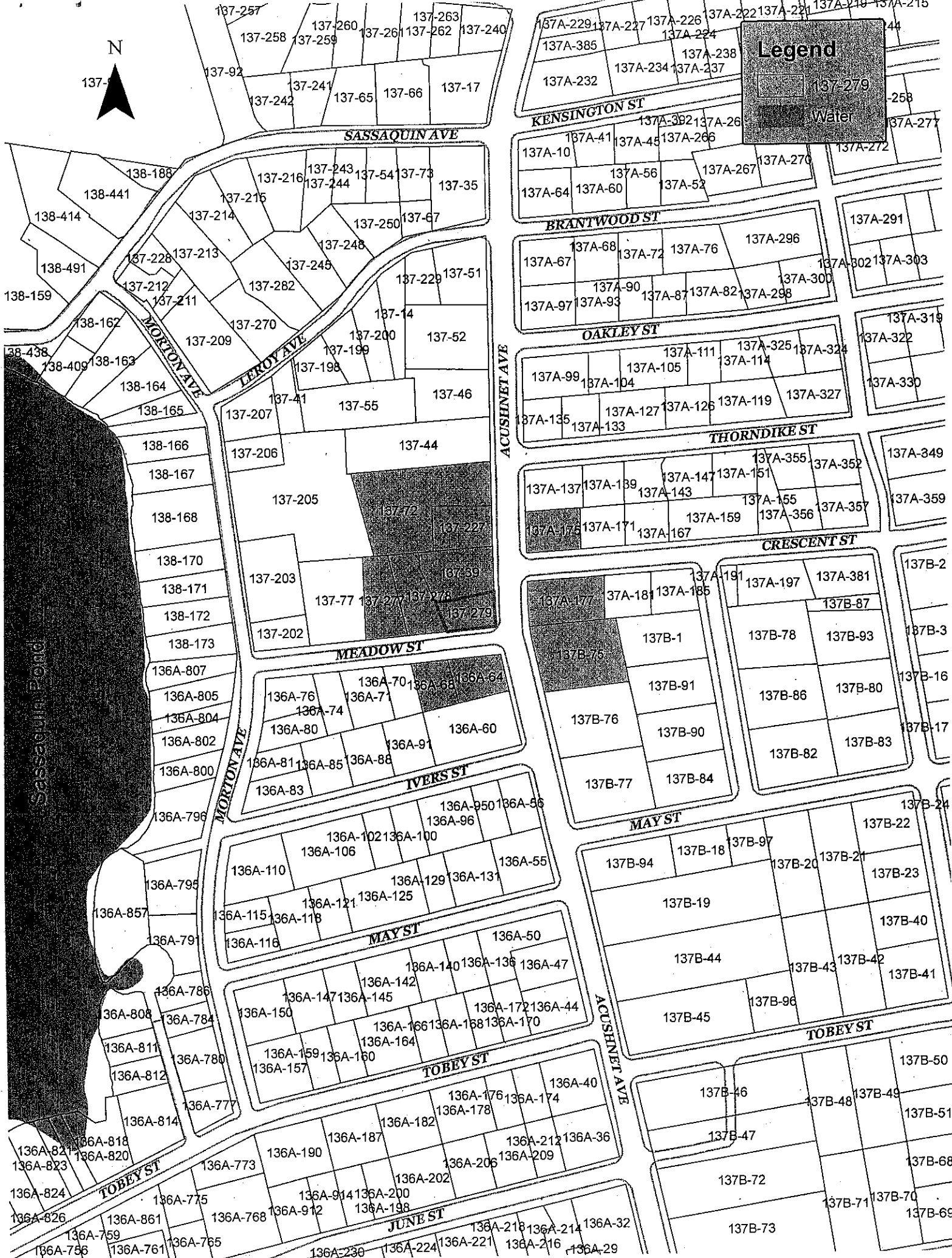
Please note that multiple listed properties with identical owner name and mailing address shall be considered duplicates, and shall require only 1 mailing. Additionally, City of New Bedford-Owned properties shall not require mailed notice.

Parcel	Location	Owner and Mailing Address
136A-64	1006 MEADOW ST	MACEDO CESAR C, MACEDO NANCY 1006 MEADOW STREET NEW BEDFORD, MA 02745
137B-75	4338 ACUSHNET AVE	FERNANDES TRACY L "TRUSTEE", TRACY FERNANDES NOMINEE TRUST 4338 ACUSHNET AVE NEW BEDFORD, MA 02745
137-279 <i>NS</i>	MEADOW ST	DPM DEVELOPMENT CORP, 70 LAMBETH STREET NEW BEDFORD, MA 02745
137A-177	4364 ACUSHNET AVE	DM PROPERTIES LLC, 4364 ACUSHNET AVENUE NEW BEDFORD, MA 02745
137A-175	4378 ACUSHNET AVE	BROOKS THOMAS K, BROOKS THOMAS E 4378 ACUSHNET AVENUE NEW BEDFORD, MA 02745
137-277	1023 MEADOW ST	PEREIRA JOSE D, PEREIRA MARY G CRAPO- 1023 MEADOW STREET NEW BEDFORD, MA 02745
137-278	1015 MEADOW ST	MEDEIROS EMANUEL B, MEDEIROS EMILIA A 1015 MEADOW STREET NEW BEDFORD, MA 02745
137-39	4371 ACUSHNET AVE	<del>PEREIRA ANTONIO</del> , <i>Alex T. oliveira, Alyssa A. Perez</i> <del>P O BOX 51271</del> <i>4371 Acushnet Ave</i> NEW BEDFORD, MA 02745
137-72	4385 ACUSHNET AVE	CABRAL BRIAN J, 4385 ACUSHNET AVENUE NEW BEDFORD, 02745
136A-68	1014 MEADOW ST	GAGNON ROBERT, GAGNON TINA 1014 MEADOW ST NEW BEDFORD, MA 02745
137-227	4379 ACUSHNET AVE	CHAVES DANIEL P, CHAVES LINDSAY S 4379 ACUSHNET AVENUE NEW BEDFORD, MA 02745



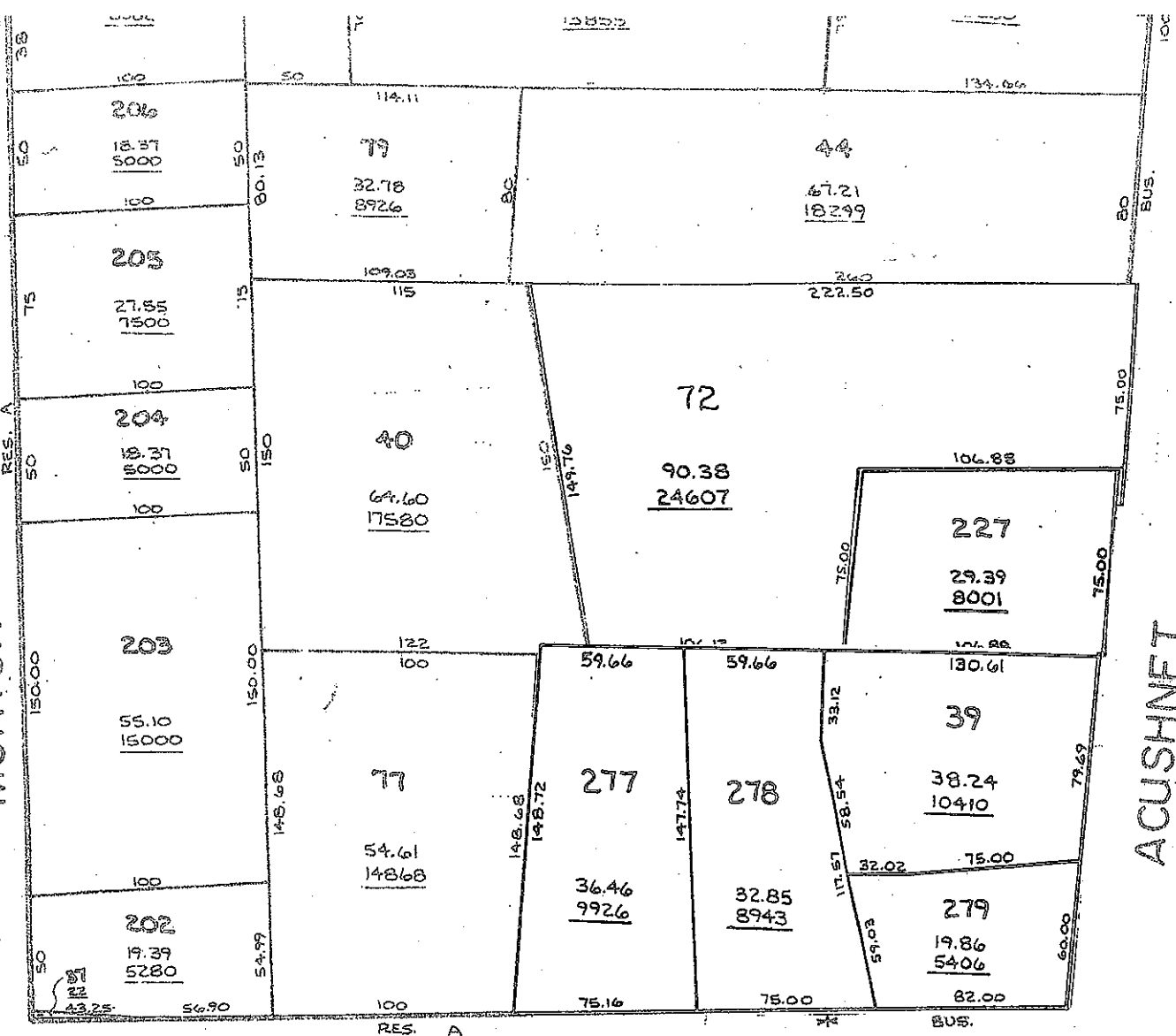
**Legend**

Water



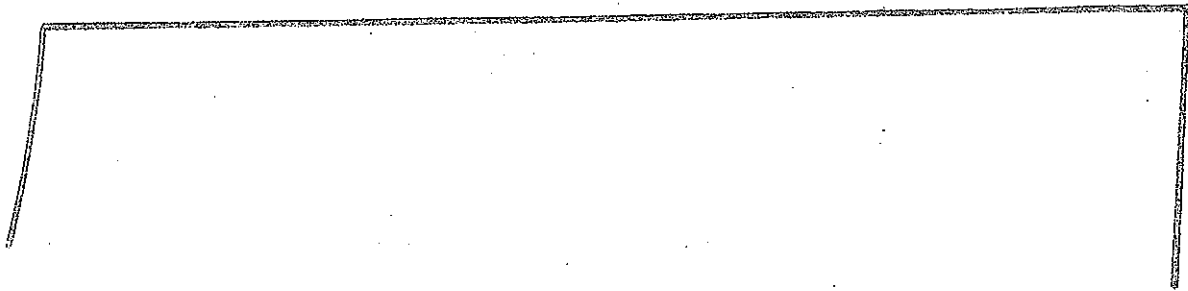
MUTTON

ACUSHNET



MEADOW

ST.



MASSACHUSETTS QUITCLAIM DEED

BK 7282 PG 120  
12/02/05 11:00 DOC. 41245  
Bristol Co. S.D.

I, WILLIAM A. KRAUSE, of Acushnet, Bristol County, Commonwealth of Massachusetts

for consideration paid of ONE HUNDRED SIX THOUSAND and 00/100 (\$106,000.00)  
DOLLARS

grant to DPM DEVELOPMENT CORP., a Massachusetts Corporation of 70 Lambeth Street,  
New Bedford, Massachusetts 02745,

with Quitclaim Covenants

(Description and encumbrances, if any)

The land in New Bedford, Bristol County, Commonwealth of Massachusetts, bounded and  
described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND  
INCORPORATED HEREIN BY REFERENCE

Being a portion of the property conveyed to the Grantor by deed dated November 19, 2004 and  
recorded in the Bristol County (S.D.) Registry of Deeds in Book 7282, Page 120

WITNESS my hand and seal this 2<sup>nd</sup> day of December 2005.

Witness

WILLIAM A. KRAUSE

COMMONWEALTH OF MASSACHUSETTS

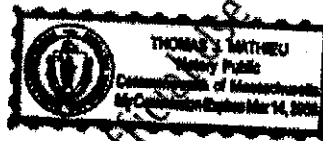
BRISTOL, SS.

December 2, 2005

Then personally appeared the above-named William A. Krause, proved to me through  
satisfactory evidence of identification, which was a Massachusetts Drivers License, to be the  
person whose name is signed on the within document, and acknowledged the foregoing  
Instrument to be his free act and deed, before me

Notary Public

My Commission Expires: 3/14/08



REG OF DEEDS  
REG #07  
BRISTOL, S

12/02/05 12:57PM 01  
30000 43763

FE 483.28

CASH 483.28

EXHIBIT "A"

The land in New Bedford, Bristol County, Commonwealth of Massachusetts, described as follows:

CONTAINING 5,406 sq. ft. (0.124 acres) and being LOT "D" as shown on plan entitled "Plan of Land situated in New Bedford, MA, surveyed for Norah Kuechler" dated September 21, 2004, by Earle O. Phillips, Jr., and recorded in the Bristol County (S.D.) Registry of Deeds in Plan Book 155, Page 8.

Subject to an outstanding Easement as shown on said plan.

Bristol South  
Registry of Deeds

Bristol South  
Registry of Deeds

Not for Official Use

Bristol South  
Registry of Deeds

Not for Official Use

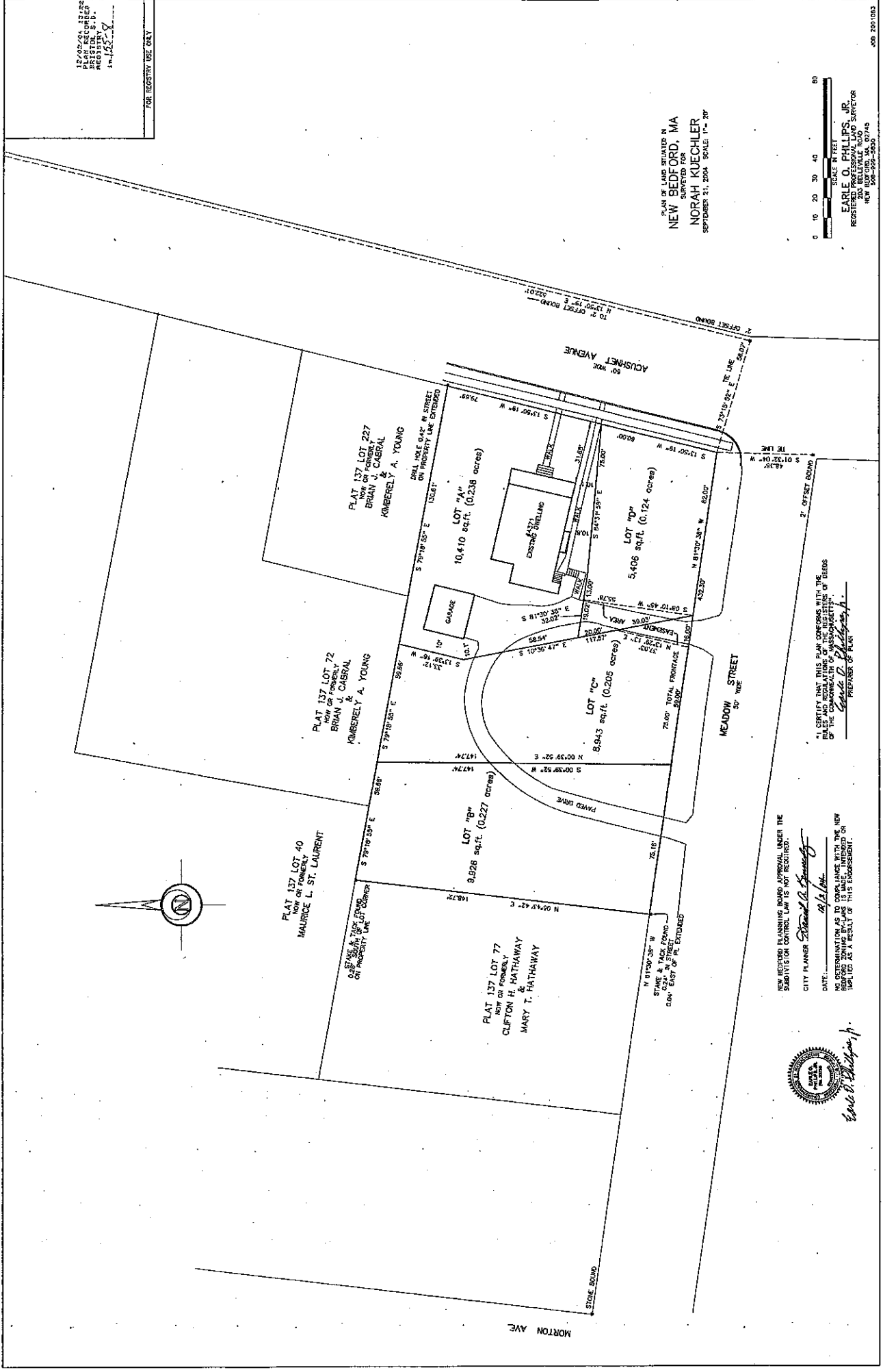
Not for

Bristol South  
Registry of Deeds

Not for

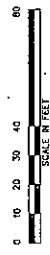
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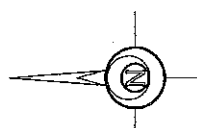


12/22/2004 12:28  
 PLAN RECORDED  
 REGISTRY S.B.  
 1-155-X  
 FOR REGISTRY USE ONLY

PLAN OF LAND DIVIDED IN  
 NEW BEDFORD, MA  
 SURVEYED FOR  
 NORAH KOECHLER  
 SEPTEMBER 21, 2004 SCALE 1"=20'



EARLE O. PHILLIPS, JR.  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 185 W. BRISTOL ST., SUITE 107-103  
 NEW BEDFORD, MA 01903  
 508-339-2829



I CERTIFY THAT THIS PLAN CONFORMS WITH THE  
 REQUIREMENTS OF THE REGISTRY OF RECORDS  
 OF THE COMMONWEALTH OF MASSACHUSETTS  
 EARLE O. PHILLIPS, JR.  
 PREPARER OF PLAN

NEW BEDFORD PLANNING BOARD APPROVAL UNDER THE  
 SUBDIVISION CONTROL LAW IS NOT REQUIRED.  
 CITY PLANNER *Edward J. Gannon*  
 DATE: *10/15/04*  
 THE CITY PLANNING BOARD HAS REVIEWED THIS PLAN AND  
 FOUND IT CONFORMS WITH THE NEW BEDFORD ZONING BY-LAW AS AMENDED AND INTENDED TO  
 BE APPLIED AS A RESULT OF THIS ENDORSEMENT.



*Earle O. Phillips, Jr.*