

Form 1075

**NOTICE OF ACTIVITY AND USE LIMITATION**  
M.G.L. c. 21E, §6 and 310 CMR 40.0000

Disposal Site Name: Raytheon Company (FMR), 430 Boston Post Road, Wayland, MA  
DEP Release Tracking Nos.: 3-13302, 3-13574 & 3-14042

This Notice of Activity and Use Limitation ("Notice") is made as of this 21 day of October, 1997, by Wayland Meadows Limited Partnership, a Massachusetts Limited Partnership with an address at 145 Rosemary Street, Suite E, Needham, MA. 02194 together with his/her/its/their successors and assigns (collectively "Owner").

WITNESSETH:

WHEREAS, Wayland Meadows Limited Partnership, of Needham, Norfolk County, Massachusetts is the owner in fee simple of those certain parcels of land located at 430 Boston Post Road, in Wayland, Middlesex County, Massachusetts, with the buildings and improvements thereon ("Property").

WHEREAS, said parcels of land, which is more particularly bounded and described in **Exhibit A**, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan to be recorded herewith in the Middlesex County (South) Registry of Deeds and/ or on a sketch plan attached hereto and filed herewith for registration with the Middlesex County (South) Registry District of the Land Court.

WHEREAS, a portion of the Property ("Portion of the Property") is subject to this Notice of Activity and Use Limitation. The Portion of the Property is more particularly bounded and described in **Exhibit A-1**, attached hereto and made part hereof. The Portion of the Property is shown on a plan to be recorded herewith and/or on a sketch plan attached hereto and filed herewith for registration:

WHEREAS, the Portion of the Property comprises part of a disposal site as the result of a release of oil and/or hazardous material. **Exhibit B** is a sketch plan showing the relationship of the Portion of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site (to the extent such boundaries have been established to date). **Exhibit B** is attached hereto and made part hereof; and

WHEREAS, one or more response actions have been selected for the Portion of the Disposal Site in accordance with M.G.L. c.21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/

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or groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Portion of the Property. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated 21 October 1997, (which is attached hereto as **Exhibit C** and made a part hereof); and

WHEREAS, this Notice of Activity and Use Limitation is recorded in advance of completion of Comprehensive Response Actions (pursuant to 310 CMR 40.0800) including both investigative, Phase II-Comprehensive Site Assessment, and remedial phases (i.e., Phases III, IV and V) necessary to achieve a Response Action Outcome for the Portion of the Property, and, therefore, approvals and Opinions required by a Licensed Site Professional (LSP) to maintain compliance with conditions and obligations set forth in this Activity and Use Limitation shall be restricted to those of the **LSP-of-Record** for Comprehensive Response Actions pursuant to 310 CMR 40.0000 (henceforth referred to herein as the **LSP**); and

WHEREAS, to the extent that achievement of a Response Action Outcome for the Portion of the Property warrants release, termination or amendment of this Activity and Use Limitation, implementation of such a release, termination or amendment shall be subject to the approval of the LSP;

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL Opinion are as follows:

1. Permitted Activities and Uses Set Forth in the AUL Opinion. The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare and the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

- (i) The Portion of the Property may be used for commercial or industrial activities with uses that may include office space, wholesale, retail, manufacturing, storage/warehousing, and assembly of goods; and
- (ii) The vertical expansion of, or interior reconstruction of, the buildings existing on the Portion of the Property as of the date of this Notice, provided that such expansion, or reconstruction, does not, in the Opinion of the LSP, limit performance of Comprehensive Response Actions, is consistent with the activities and uses set forth in this Paragraph and is not expressly prohibited by this Notice; and
- (iii) Such other activities or uses which, in the Opinion of the LSP, shall present no greater risk of harm to health, safety, public welfare and the environment than the activities and uses set forth in this Paragraph; and

- (iv) All activities and uses consistent with those set forth in this Paragraph and not expressly prohibited by this Notice.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) Residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities; or for public access purposes, unless previously approved by the LSP in accordance with the obligations and conditions set forth in the AUL Opinion;
- (ii) Groundwater use except for assessment or remedial purposes;
- (iii) Subsurface activities that could render contaminated media, waste or debris accessible to exposure including; excavation, new construction below grade, reconstruction of existing buildings below grade, or maintenance of subsurface utilities unless certified by the LSP that such activities:
  - a) would not pose a substantial hazard or a significant risk of harm to health, safety, public welfare or the environment; and
  - b) are unlikely to result in generation of contaminated waste, debris or media pursuant to 310 CMR 40.0000.
- (iv) Activities and uses that, in the Opinion of the LSP, limit access to, or performance of, Comprehensive Response Actions at the Portion of the Property; and
- (v) Other activities or uses that, in the Opinion of the LSP, would likely result in significant, risk from exposures to oil and/or hazardous material if site activities or uses were to take place on the Portion of the Property.

3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

- (i) Certification in the form of documentation bearing the original signature, date and Seal of the LSP must be obtained by the Owner prior to implementation of the following activities and uses:
  - a) expansion or relocation of existing buildings laterally or vertically;

- b) use of the Portion of the Property for residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities, or for unrestricted public access;
  - c) subsurface activities including: excavation, new construction below grade, reconstruction of existing buildings below grade, or maintenance of subsurface utilities; and
  - d) land development or construction involving changes in surface conditions (i.e., topography, surface cover, etc.) including installation or removal of pavement, building foundations, drainage structures or vegetative cover.
- (ii) Parties conducting activities and uses described in 3(i), above, that, in the Opinion of the LSP, may include disturbance of contaminated media, waste or debris, or that could render subsurface contaminated media, waste or debris accessible to exposure, shall submit, for approval by the LSP, a contingency plan for the management of contaminated media, waste or debris, if encountered, including:
- a) procedures for monitoring of contaminated media, waste or debris;
  - b) procedures for notification to the LSP of the discovery of contaminated media, waste or debris;
  - c) a certification that all response actions will be conducted under the supervision of the LSP;
  - d) a soils management plan including contingencies for handling contaminated soil and/or groundwater if activities may extend below the water table;
  - e) a certification that response personnel will comply with applicable safety regulations, including 29 CFR 1910.120;
  - f) a certification that contaminated waste, debris or media or remediation waste (pursuant to 310 CMR 40.0000) generated by such activities shall be handled, stored, transported and disposed in accordance with the applicable federal, state and local regulations.
- (iii) The responsible parties and their representatives shall be granted unrestricted access to the Portion of the Property in order to conduct any and all activities associated with the performance of response actions as defined under the MCP, or any other applicable regulation.
- (iv) The integrity of all building foundations and all paved surfaces existing on the Portion of the Property will be maintained in order to eliminate direct access to subsurface contaminated media.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Portion of the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by the LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare and the environment. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, and the environment, or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by the LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by the LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Portion of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this 21<sup>st</sup> day of October, 1997.

Owner: Wayland Meadows Limited Partnership

By: Wayland Meadows Corporation, its General Partner

By:   
Donald A. Levine, President

By:   
Lewis Heantz, Treasurer

(See Continuation of Signature Page attached)

Continuation of Signature Page

By: 90 Salem Corporation, its General  
Partner

By:   
Donald A. Levine, President

By:   
Lewis Heafitz, Treasurer

## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss10/21, 1997

Then personally appeared the above named Donald A. Levine and Lewis Heafitz as President and Treasurer of Wayland Meadows Corporation, as General Partner of Wayland Meadows Limited Partnership, and acknowledged the foregoing to be their free act and deed, and the free act and deed of said corporation as said general partner, before me,

  
 Notary Public

 RICHARD P. CASS  
 My Commission Expires: 8/25/2000

(See Continuation of Acknowledgment Page attached)

The undersigned LSP-of-Record hereby certifies that he executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in his Opinion this Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: 10/21/97John C. Drobinski, LSP Reg. No. 2196
 WILLIAM H. O'CONNELL  
 Notary Public  
 My Commission Expires Jan. 22, 2004


## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss10/21, 1997

Then personally appeared the above named John C. Drobinski, and acknowledged the foregoing to be his free act and deed before me,

  
 Notary Public
My Commission Expires: 1/22/04

Upon recording, return to:

Continuation of Acknowledgment Page

## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss10/21, 1997

Then personally appeared the above named Donald A. Levine and Lewis Heafitz as President and Treasurer of 90 Salem Corporation, as General Partner of Wayland Meadows Limited Partnership, and acknowledged the foregoing to be their free act and deed, and the free act and deed of said corporation as said general partner, before me,

  
Notary PublicMy Commission Expires: 8/25/2000

**EXHIBIT A**

(To include metes and bounds description of Property and Registered Property Plan).

**VHB****Legal Description**

A certain parcel of land being comprised partly of registered land and partly of un-registered land, situated on the northerly side of Boston Post Road (Route 20) and on the westerly side of Old Sudbury Road (Route 27) in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point in the northerly line of Route 20 at the intersection of the northerly line of land now or formerly of the MBTA; thence

- N 74° 45' 30" W a distance of four hundred thirty-eight and ninety-two hundredths feet (438.92') by the said northerly line of Route 20 to a point; thence
- N 15° 14' 30" E a distance of forty-eight and sixty-three hundredths feet (48.63') to a point; thence
- N 74° 45' 30" W a distance of one hundred seventeen and twenty-one hundredths feet (117.21') to a point; thence
- N 15° 14' 30" E a distance of one and thirty-seven hundredths feet (1.37') to a point; thence
- N 74° 45' 30" W a distance of one hundred twenty-three and seventy-three hundredths feet (123.73') to a point, the previous four (4) courses bounding on land now or formerly of the Town of Wayland and of the Commonwealth of Massachusetts; thence
- N 71° 34' 28" E a distance of five hundred forty-nine and fifty-one hundredths feet (549.51') to a point; thence
- N 11° 48' 20" W a distance of three hundred twenty-eight and no hundredths feet (328.00') to a point; thence
- S 71° 01' 00" W a distance of eight hundred forty-two feet, more or less (842'±) to a point at the Sudbury River, the previous three (3) courses bounding on land now or formerly of Dennis Hamlen; thence
- Northerly by the Sudbury River, a distance of eight hundred and one feet, more or less (801'±) to a point; thence
- S 86° 08' 20" E a distance of two thousand one hundred seventy-seven feet, more or less (2,177'±) by land now or formerly of the U.S. Fish and Wildlife Service and the Town of Wayland to a point in the Westerly line of Route 27; thence

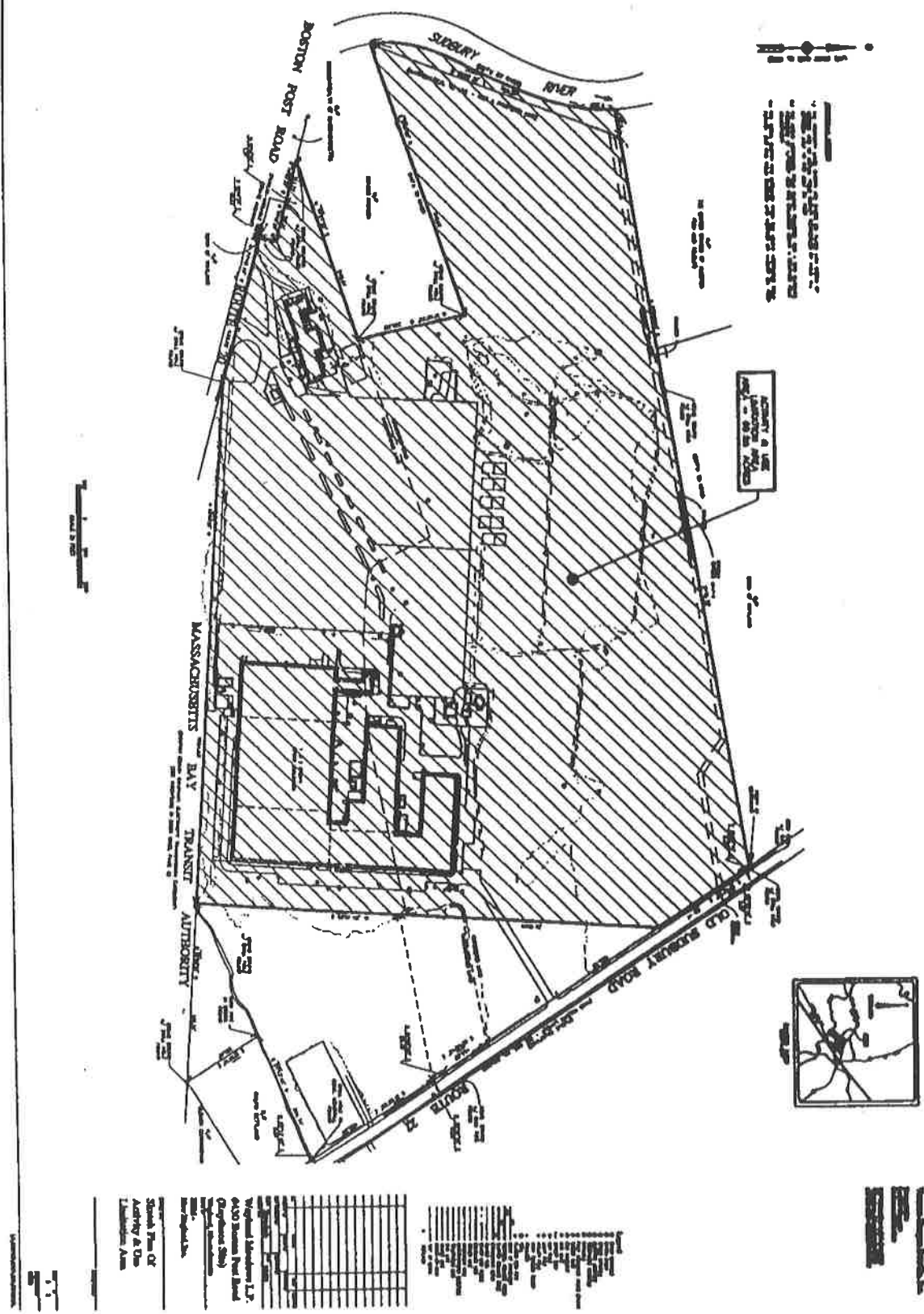
**VHB**

- S 32° 59' 09" E a distance of one thousand eighty-six and twenty-seven hundredths feet (1086.27') to a point; thence
- S 31° 52' 50" E a distance of four hundred sixty-seven and sixty-six hundredths feet (467.66') to a point, the previous (2) courses bounding on the said westerly line of Route 27; thence
- S 67° 13' 40" W a distance of three hundred ninety-four and seventy four hundredths feet (394.74') by a brook to a point; thence
- S 32° 06' 10" E a distance of two hundred fifty and forty-nine hundredths feet (250.49') to a point in the northerly line of land now or formerly of the MBTA, the previous two (2) courses bounding on land now or formerly of Ralph Wetland; thence
- N 86° 08' 20" W a distance of two thousand sixty and eighteen hundredths feet (2060.18') by the said northerly line of land of the MBTA to the point of beginning.

The above described parcel of land contains an area of 82.53± acres and is more particularly shown on a plan entitled "Wayland Meadows Corporation - #430 Boston Post Road (Raytheon Site) - Wayland, MA, ALTA ACSM land Title Survey" dated August 18, 1997, prepared by Vanasse Hangen Brustlin, Inc. 101 Walnut Street, Watertown, MA. \*



\*, and is also shown as the cross hatched and the non-cross hatched areas on a plan entitled "Wayland Meadows L.P., 430 Boston Post Road, Wayland, Massachusetts - ERM - New England, Inc. - Sketch Plan of Activity & Use Limitation Plan" prepared by Vanasse Hangen Brustlin, Inc. to be recorded herewith as part of Exhibit A.



**EXHIBIT A-1**

(To include metes and bounds description of the Portion of the Property and Registered Portion of the Property Plan).

**VHB**

## LEGAL DESCRIPTION ACTIVITY & USE LIMITATION AREA

A certain parcel of land situated on the northerly side of Boston Post Road (Route 20) and on the westerly side of Old Sudbury road (Route 27) in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows.

Beginning at a point in the westerly line of Old Sudbury Road at the southeasterly corner of land owned by the Town of Wayland, said point being the most northerly corner of the herein described premises: thence

- |                 |   |
|-----------------|---|
| S 31° 32' 10" E | a distance of two and twenty hundredths feet (2.20') to a point: thence   |
| S 32° 59' 20" E | a distance of three hundred twenty one and eleven hundredths feet (321.11') to a point, the previous two (2) courses bounding on the said westerly line of Old Sudbury road: thence |
| S 03° 51' 46" W | a distance of one thousand three hundred sixty nine and seventy two hundredths feet (1369.72') to a point: thence   |
| N 86° 08' 20" W | a distance of one thousand five hundred thirty four and eighty three hundredths feet (1534.83') to a point in the northerly line of Boston Post Road: thence                        |
| N 74° 45' 30" W | a distance of four hundred thirty eight and ninety two hundredths feet (438.92') by the said northerly line of Boston Post Road to a point: thence                                  |
| N 15° 14' 30" E | a distance of forty eight and sixty three hundredths feet (48.63') to a point: thence   |
| N 74° 45' 30" W | a distance of one hundred seventeen and twenty one hundredths feet (117.21') to a point: thence   |
| N 15° 14' 30" E | a distance of one and thirty seven hundredths feet (1.37') to a point: thence   |
| N 74° 45' 30" W | a distance of one hundred twenty three and seventy three hundredths feet (123.73') to a point: thence   |
| N 71° 34' 28" E | a distance of five hundred forty nine and fifty one hundredths feet (549.51') to a point: thence  |
| N 11° 48' 20" W | a distance of three hundred twenty eight and no hundredths feet (328.00') to a point: thence  |
| S 71° 01' 00" W | a distance of eight hundred forty two feet, more or less (842') to a point at the Sudbury River: thence   |
| Northerly       | by the said Sudbury River a distance of eight hundred fifty seven feet, more or less (857') by the said Sudbury River to a point: thence  |
| N 80° 45' 43" E | a distance of two thousand two hundred fifty seven feet, more or less (2257') to the point of beginning.  |

The above described parcel of land contains an area of 69.9 acres more or less, and is more particularly shown on a plan entitled "Wayland Meadows L.P., 430 Boston Post Road, Wayland, Massachusetts - ERM-New England, Inc. - Sketch Plan of Activity & Use Limitation Plan" prepared by Vanasse Hangen Brustlin, Inc. to be recorded herewith. (See Plan Attached as Exhibit A)

**EXHIBIT B**

(To include a sketch displaying the boundaries of the disposal site (to the extent such boundaries have been established as of the date of this Notice) in relation to the boundaries of the Portion of the Property subject to the Notice of AUL).

(See Plan Attached as Exhibit A)

**EXHIBIT C**

(To include LSP-of-Record Notice of AUL Opinion).

**EXHIBIT C****ACTIVITY & USE LIMITATION OPINION****430 BOSTON POST ROAD, WAYLAND, MASSACHUSETTS**

This Activity & Use Limitation Opinion (AUL) Opinion is issued in support of the Notice of Activity and Use Limitation (Notice) filed on a Portion of the Property located at 430 Boston Post Road, Wayland Massachusetts. Pursuant to 310 CMR 40.0000, this AUL Opinion describes the basis for restrictions in activities on, and uses of, the Portion of the Property subject to this Notice and obligations and conditions to be undertaken and/or maintained to ensure protection of health, safety, public welfare and the environment. This AUL Opinion is certified by the Licensed Site Professional (LSP)-of-Record for Comprehensive Response Actions being conducted in accordance with Permit No. 133939 issued under the authority of the Massachusetts Department of Environmental Protection (MA DEP), Bureau of Waste Site Cleanup.

**1.0****PHYSICAL DESCRIPTION AND LAND USE**

The subject Property is an approximately 83 acre parcel located at 430 Boston Post Road in Wayland, Massachusetts (Exhibit A). Approximately 6 acres are occupied by building and structures, 16 acres are paved and 60 acres are undeveloped meadow, woodland and wetland. The Property is bounded to the west by the Sudbury River, to north by undeveloped land including the Great Meadows National Wildlife Refuge, to the east by Route 27 and to the South by Route 20.

Prior to 1955 the Property was utilized for residential and agricultural purposes. Subsequent to development in 1955, the Property was utilized as an engineering research and development facility until decommissioning in 1995. The Property is currently vacant and zoned for limited commercial and residential use.

## 2.0

**BACKGROUND**

Releases of oil and hazardous materials to soil and groundwater were discovered on the Property during decommissioning of the former manufacturing facility. Massachusetts General Law, Chapter 21E, requires assessment and, if necessary, remedial actions in accordance with requirements of the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000.

The MCP process allows up to five years for completion of those phases of assessment and/or remediation that are necessary to achieve regulatory closure. Assessment and/or remediation activities are conducted as "Comprehensive Response Actions" under the direction of the Licensed Site Professional -of-Record (LSP). Upon satisfying all applicable MCP requirements, a Response Action Outcome (RAO) Statement, certified by the LSP, is filed with the MA DEP Bureau of Waste Site Cleanup, officially closing the site out of the MCP process. Once closure is obtained it is binding, subject however, to DEP audit for up to five years from the date of filing.

## 3.0

**PURPOSE AND APPLICABILITY OF THE NOTICE OF ACTIVITY AND USE LIMITATION**

The purpose of the Notice is to record on the registered property deed those activities and land uses that are consistent with continued protection of health, safety, public welfare and the environment, those that are specifically prohibited and obligations and conditions necessary to ensure continued protection.

This Notice is applicable to the Portion of the Property as defined in Exhibit A-1. This Notice is being filed prior to completion of assessment and, as necessary, remedial actions required to achieve an RAO. The Portion of the Property includes the Disposal Site, as defined under MGL Chapter 21E, to the extent that Disposal Site boundaries have been established to date (Exhibit B). The remaining Portion of the Property surrounding the Disposal Site is selected as a conservatively large area pending additional assessment to fully define final Disposal Site boundaries in accordance with MCP requirements.

This Notice of AUL is recorded by the Property owner as a precautionary measure to ensure appropriate use of the Portion of the Property during completion of Comprehensive Response Actions, including further assessment to fully define final Disposal Site boundaries. In so far as assessment and/or remediation further define the boundaries of the Disposal Site, as referred to above, this Notice of AUL may, in the Opinion of the LSP, be terminated or amended. In all cases, the LSP shall review this Notice of AUL, and if appropriate, terminate or amend this Notice of AUL prior to approval and filing of a RAO for the Portion of the Property, or any portion thereof. Because this Notice is being filed prior to completion of assessment and remedial actions required to achieve an RAO, all approvals and opinions required by a Licensed Site Professional to maintain compliance with this Notice and AUL Opinion shall be restricted to the Licensed Site Professional of Record for Comprehensive Response Actions, and any termination or amendment of this Notice of AUL pursuant to the prior sentence shall be based upon an opinion of the LSP of Record, only.

## 4.0

**PERMITTED ACTIVITIES AND USES SET FORTH IN THE AUL  
OPINION**

The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare and the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

- (i) The Portion of the Property may be used for commercial or industrial activities with uses that may include office space, wholesale, retail, manufacturing, storage/warehousing, and assembly of goods; and
- (ii) The vertical expansion of, or interior reconstruction of, the buildings existing on the Portion of the Property as of the date of this Notice, provided that such expansion, or reconstruction, does not, in the Opinion of the LSP, limit performance of Comprehensive Response Actions, is consistent with the activities and uses set forth in this Paragraph and is not expressly prohibited by this Notice; and

- (iii) Such other activities or uses which, in the Opinion of the LSP, shall present no greater risk of harm to health, safety, public welfare and the environment than the activities and uses set forth in this Paragraph; and
- (iv) All activities and uses consistent with those set forth in this Paragraph and not expressly prohibited by this Notice.

## 5.0

**ACTIVITIES AND USES INCONSISTENT WITH THE AUL OPINION**

Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) Residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities; or for public access purposes, unless previously approved by the LSP in accordance with the obligations and conditions set forth in the AUL Opinion;
- (ii) Groundwater use except for assessment or remedial purposes;
- (iii) Subsurface activities that could render contaminated media, waste or debris accessible to exposure including; excavation, new construction below grade, reconstruction of existing buildings below grade, or maintenance of subsurface utilities unless certified by the LSP that such activities:
  - (a) would not pose a substantial hazard or a significant risk of harm to health, safety, public welfare or the environment; and
  - (b) are unlikely to result in generation of contaminated waste, debris or media pursuant to 310 CMR 40.0000.

- (iv) Activities and uses that, in the Opinion of the LSP, limit access to, or performance of, Comprehensive Response Actions at the Portion of the Property; and
- (v) Other activities or uses that, in the Opinion of the LSP, would likely result in significant, risk from exposures to oil and/or hazardous material if site activities or uses were to take place on the Portion of the Property.

## 6.0

**OBLIGATIONS AND CONDITIONS SET FORTH IN THE AUL OPINION**

If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

- (i) Certification in the form of documentation bearing the original signature, date and Seal of the LSP must be obtained by the Owner prior to implementation of the following activities and uses:
  - a) expansion or relocation of existing buildings laterally or vertically;
  - b) use of the Portion of the Property for residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities, or for unrestricted public access;
  - c) subsurface activities including; excavation, new construction below grade, reconstruction of existing buildings below grade, or maintenance of subsurface utilities; and
  - d) land development or construction involving changes in surface conditions (i.e., topography, surface cover, etc.) including installation or removal of pavement, building foundations, drainage structures or vegetative cover.
- (ii) Parties conducting activities and uses described in 6.0(i) above, that, in the Opinion of the LSP, may include disturbance of contaminated media, waste or debris, or that could render subsurface contaminated media, waste or debris accessible to exposure, shall submit, for approval by the LSP, a contingency plan for the management of

contaminated media, waste or debris, if encountered, including:

- a) procedures for monitoring of contaminated media, waste or debris;
  - b) procedures for notification to the LSP of the discovery of contaminated media, waste or debris;
  - c) a certification that all response actions will be conducted under the supervision of the LSP;
  - d) a soils management plan including contingencies for handling contaminated soil and/or groundwater if activities may extend below the water table;
  - e) a certification that response personnel will comply with applicable safety regulations, including 29 CFR 1910.120;
  - f) a certification that contaminated waste, debris or media or remediation waste (pursuant to 310 CMR 40.0000) generated by such activities shall be handled, stored, transported and disposed in accordance with the applicable federal, state and local regulations.
- (iii) The responsible parties and their representatives shall be granted unrestricted access to the Portion of the Property in order to conduct any and all activities associated with the performance of response actions as defined under the MCP, or any other applicable regulation.

The integrity of all building foundations and all paved surfaces existing on the Portion of the Property will be maintained in order to eliminate direct access to subsurface contaminated media.

7.0

**CERTIFICATION**

The undersigned LSP-of-Record hereby certifies that the terms of this Activity and Use Limitation Opinion are consistent with those of the Notice for the subject Portion of Property located at 430 Boston Post Road, Wayland, Massachusetts.

Date: October 21, 1997

  
John C. Drobinski, LSP Reg. No. 2196



**EXHIBIT D**  
**(BWSC Form 114, AUL Transmittal Form)**



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC-114

ACTIVITY & USE LIMITATION (AUL) OPINION FORM

Pursuant to 310 CMR 40.1070 - 40.1084 (Subpart J)

Release Tracking Number

3 - 13302

COMPLETE THIS FORM AND ATTACH AS AN EXHIBIT TO THE AUL DOCUMENT TO BE RECORDED AND/OR REGISTERED WITH THE REGISTRY OF DEEDS AND/OR LAND REGISTRATION OFFICE.

A. LOCATION OF DISPOSAL SITE AND PROPERTY SUBJECT TO AUL:

Disposal Site Name: Raytheon Company (FMR)

Street: 430 Boston Post Road

Location Aid: \_\_\_\_\_

City/Town: Weyland, MA

ZIP Code: 01778-0000

Address of property subject to AUL, if different than above. Street: \_\_\_\_\_

City/Town: \_\_\_\_\_

ZIP Code: \_\_\_\_\_

B. THIS FORM IS BEING USED TO: (check one)

- ☒ Provide the LSP Opinion for a **Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1074 (complete all sections of this form)
- ☐ Provide the LSP Opinion for an **Amended Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1081(4) (complete all sections of this form).
- ☐ Provide the LSP Opinion for a **Termination of a Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1083(3) (complete all sections of this form).
- ☐ Provide the LSP Opinion for a **Grant of Environmental Restriction**, pursuant to 310 CMR 40.1071. (complete all sections of this form)
- ☐ Provide the LSP Opinion for an **Amendment of Environmental Restriction**, pursuant to 310 CMR 40.1081(3) (complete all sections of this form).
- ☐ Provide the LSP Opinion for a **Release of Environmental Restriction**, pursuant to 310 CMR 40.1083(2) (complete all sections of this form)

C. LSP OPINION:

I attest under the pains and penalties of perjury that I have personally examined and am familiar with this submittal, including any and all documents accompanying this submittal. In my professional opinion and judgment based upon application of (i) the standard of care in 309 CMR 4.02(1), (ii) the applicable provisions of 309 CMR 4.02(2) and (3), and (iii) the provisions of 309 CMR 4.03(5), to the best of my knowledge, information and belief,

> if Section B indicates that a **Notice of Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1074(1)(b);

> if Section B indicates that an **Amended Notice of Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1080(1) and 40.1081(1);

> if Section B indicates that a **Termination of a Notice of Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1083(3)(a);

> if Section B indicates that a **Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1071(1)(b);

> if Section B indicates that an **Amendment to a Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1080(1) and 40.1081(1);

> if Section B indicates that a **Release of Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1083(3)(a).

I am aware that significant penalties may result, including, but not limited to, possible fines and imprisonment, if I submit information which I know to be false, inaccurate or materially incomplete.

- ☐ Check here if the Response Action(s) on which this opinion is based, if any, are (were) subject to any order(s), permit(s) and/or approval(s) issued by DEP or EPA. If the box is checked, you MUST attach a statement identifying the applicable provisions thereof

SECTION C IS CONTINUED ON THE NEXT PAGE.



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC-114

ACTIVITY & USE LIMITATION (AUL) OPINION FORM

Pursuant to 310 CMR 40.1070 - 40.1084 (Subpart J)

Release Tracking Number

3

13302

C. LSP OPINION: (continued)

LSP Name: John C. Drobinski LSP #: 2196

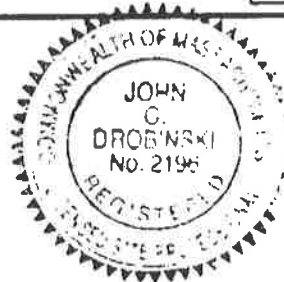
Stamp:

Telephone: 617-267-8377 Ext.: 150

FAX: 617-267-6447

LSP Signature: [Signature]

Date: 10/21/97



YOU MUST COMPLETE ALL RELEVANT SECTIONS OF THIS  
FORM OR DEP MAY FIND THE DOCUMENT TO BE INCOMPLETE.

BK 27793 pg 166





William Francis Galvin  
Secretary of the  
Commonwealth

*The Commonwealth of Massachusetts*

*Secretary of the Commonwealth*

*State House, Boston, Massachusetts 02133*

216  
EQUIL WARS

April 2, 1999

TO WHOM IT MAY CONCERN:

I hereby certify that a certificate of registration of a Foreign Limited Liability Company was filed in this office by

**WAYLAND BUSINESS CENTER LLC**

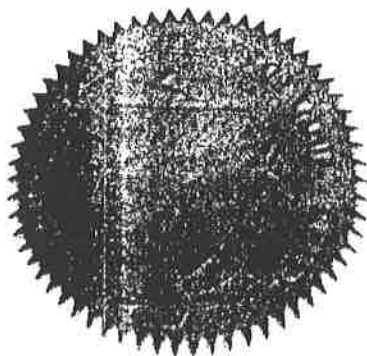
in accordance with the provisions of Massachusetts General Laws Chapter 156C on **December 5, 1997**.

I further certify that said Limited Liability Company has filed all annual reports due and paid all fees with respect to such reports; that said Limited Liability Company has not filed a certificate of cancellation or withdrawal; and that, said Limited Liability Company is in good standing with this office.

I also certify that the names of all managers listed in the most recent filing are:  
**WAYLAND BUSINESS CENTER, INC.**

I further certify that the name of persons authorized to act with respect to real property instruments listed in the most recent filings are: **DEAN F. STRATOULY**

MSD 04/13/99 03:54:25 1037 32.00



In testimony of which,  
I have hereunto affixed the  
Great Seal of the Commonwealth  
on the date first above written.

*William Francis Galvin*

Secretary of the Commonwealth

Wayland Business Center, Wayland, Massachusetts

**NOTICE OF ACTIVITY AND USE LIMITATION**  
M.G.L. c. 21E, §6 and 310 CMR 40.0000

BOSTON WAYS

Disposal Site Name: Former Raytheon Facility  
DEP Release Tracking Nos.: 3-13302

This Notice of Activity and Use Limitation ("Notice") is made as of this 16<sup>th</sup> day of February, 1999, by Wayland Business Center, LLC with an address at 400-440 Boston Post Road, Wayland, MA 01778 together with his/her/its/their successors and assigns (collectively "Owner").

## WITNESSETH:

WHEREAS, Wayland Business Center, LLC, of Wayland, Middlesex County, Massachusetts is the owner in fee simple of that certain parcel of land located at 430 Boston Post Road, in Wayland, Middlesex County, Massachusetts, with the buildings and improvements thereon ("Property");

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded and/or registered in Middlesex County Registry of Deeds/Land Registration Office in Plan Book \_\_\_\_\_, Plan \_\_\_\_\_;

WHEREAS, a portion of the Property ("**Portion of the Property**") is subject to this Notice of Activity and Use Limitation. The Portion of the Property consists of 36,360± square feet and is more particularly bounded and described in Exhibit A-1, attached hereto and made part hereof. The Portion of the Property is shown as a cross-hatched area labeled Activity and Use Limitation Area on a plan recorded with Middlesex County Registry of Deeds/Land Registration Office in Plan Book \_\_\_\_\_, Plan \_\_\_\_\_;

WHEREAS, the Portion of the Property comprises a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Portion of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site (to the extent such boundaries have been established). Exhibit B is attached hereto and made part hereof; and

WHEREAS, one or more response actions have been selected for the Portion of the Disposal Site in accordance with M.G.L. c.21E ("**Chapter 21E**") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Portion of the Property. The basis for such restrictions is set forth in an Activity

and Use Limitation Opinion ("AUL Opinion"), dated February 16, 1999, (which is attached hereto as Exhibit C and made a part hereof);

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL Opinion are as follows:

1. Permitted Activities and Uses Set Forth in the AUL Opinion. The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare and the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

- (i) Commercial or industrial activities and uses, including, but not limited to, vehicular parking, pedestrian and vehicular traffic, and landscaping, which do not cause and/or result in direct contact, disturbance of, and/or relocation of, the petroleum-impacted soil currently located greater than six feet below grade;
- (ii) Shallow (less than six feet below grade) excavation activities associated with subsurface utility or construction work;
- (iii) Deep (greater than six feet below grade) excavation activities associated with subsurface utility or construction work, provided that the activities are conducted in accordance with a Soil Management Plan, and if appropriate, a Health and Safety Plan, developed in accordance with Obligation (i) of Paragraph 3 below by a Licensed Site Professional ("LSP") prior to the initiation of such activities, the soil management procedures of the MCP cited at 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018;
- (iv) Activities and uses which are not prohibited by this Notice of AUL; and
- (v) Such other activities or uses which, in the Opinion of the LSP, shall present no greater risk of harm to health, safety, public welfare and the environment than the activities and uses set forth in this Paragraph.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) Residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities and uses, unless such activity is first evaluated by an LSP who renders an Opinion that attests

that a condition of no significant risk is maintained, consistent with the provisions of the MCP;

- (ii) Subsurface activities, including, but not limited to, excavation which may result in direct contact with, disturbance, or relocation of the petroleum-impacted soil located greater than six feet below grade, which are not conducted in accordance with Section 1 of this Notice of AUL;
- (iii) Relocation of the petroleum-impacted soil currently located greater than six feet below grade to a shallower depth, unless such activity is first evaluated by an LSP who renders an Opinion that attests that a condition of no significant risk is maintained, consistent with the provisions of the MCP; and
- (iv) Placement of wells for the withdrawal of groundwater for uses other than assessment or remediation.

3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

- (i) A Soil Management Plan, and if appropriate, a Health and Safety Plan, must be prepared by an LSP prior to initiation of any subsurface activity that may disturb petroleum-impacted soil located greater than six feet below grade within the Portion of the Property;
- (ii) The petroleum-impacted soil located greater than six feet below grade within the Portion of the Property subject to this AUL may not be relocated to a shallower depth within the Portion of the Property, unless such activity is first evaluated by an LSP who renders an Opinion that attests that a condition of no significant risk is maintained, consistent with the provisions of the MCP; and

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses, except for purposes allowed by Section 1, at the Portion of the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by the LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare and the environment. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Response Action Outcome. Except as provided in Section 1, the activities, uses and/or exposures upon which this Notice is based shall not change at any

time to cause a significant risk of harm to health, safety, public welfare, and the environment, or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by the LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by the LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Portion of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer.

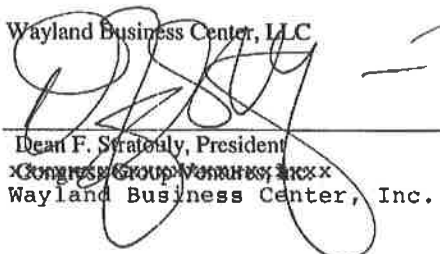
This Notice shall be incorporated either in full or by reference into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Portion of the Property or a portion thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this 16 day of February, 1999.

Owner: Wayland Business Center, LLC

By:

  
Dean F. Straton, President  
~~Congress Group Ventures, Inc.~~  
Wayland Business Center, Inc.

## COMMONWEALTH OF MASSACHUSETTS

Middlesex, ssFebruary 23, 1999

Then personally appeared the above named Dean Strahaly and acknowledged the foregoing to be their free act and deed, and the free act and deed of said corporation as said general partner, before me,

Donald A. Blumenthal  
Notary Public  
My Commission Expires: 2/16/2001

The undersigned LSP hereby certifies that he executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in his Opinion this Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: 2/16/99

John C. Drobinski  
John C. Drobinski, LSP Reg. No. 2196  
[LSP SEAL]

## COMMONWEALTH OF MASSACHUSETTS

Suffolk Co., ssFebruary 16, 1999

Then personally appeared the above named John C. Drobinski, and acknowledged the foregoing to be his free act and deed before me,

William H. O'Connell  
Notary Public  
My Commission Expires:

Upon recording, return to:

Mr. Christopher Lane  
Congress Group Ventures  
One Memorial Drive  
Cambridge, MA 02142

WILLIAM H. O'CONNELL  
Notary Public  
My Commission Expires Jan. 22, 2004

**EXHIBIT A**

A certain parcel of land situated in Wayland, Middlesex County, Massachusetts, shown as land of Wayland Business Center, LLC on a plan entitled, "Plan of Land Located on Boston Post Road, Wayland, Massachusetts Owned by Wayland Business Center, LLC" dated January 18, 1999, Scale 1" = 40', by Vanessa Hanger Brutlin, Inc. bounded and described as follows: recorded herewith

426  
pg 7 — Included in the parcel is a parcel of registered land shown as  
Lot A on L.C. Plans # 17983 A —

Current Off. of Title : 210249 Book 1181, Page 99

**EXHIBIT A-1**

Containing 36,360 square feet of land, more or less, according to the plan recorded herewith entitled "Plan of Land Located on Boston Post Road, Wayland, Massachusetts Owned by Wayland Business Center, LLC", dated January 18, 1999, Scale 1" = 40', by Vanasse Hangen Brustlin, Inc.



101 Walnut Street  
Post Office Box 9151  
Watertown  
Massachusetts 02272  
617 924 1770  
FAX 617 924 2286

## LEGAL DESCRIPTION

### Activity and Use Limitation area

A certain parcel of land located on the property owned now or formerly by Wayland Business Center LLC situated northerly of Boston Post Road (Route 20) and westerly of Old Sudbury Road (Route 27) in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows.

(Reference is made to Buildings #3 & #4 which are a portion of the buildings that comprise the former Raytheon Manufacturing Corporation's complex.) The northwest corner of Building #3 is located approximately seven hundred sixty five feet (765') northerly from the northerly line of Route 20, and approximately nine hundred fifteen feet (915') westerly from the westerly line of Route 27.

Beginning at a point in the northerly line of Building #3, said point being located approximately sixty feet (60') easterly from the above mentioned northwesterly corner of Building #3: thence

Easterly a distance of one hundred eighty five feet (185') by the said northerly line of Building #3 to a point: thence

Southerly a distance of one hundred ninety eight feet (198') more or less to a point in the northerly line of Building #4, said course is perpendicular to the last mentioned course: thence

Westerly a distance of one hundred eighty five feet (185') by the said northerly line of Building #4 to a point: thence

Northerly a distance of one hundred ninety eight feet (198') more or less to the point of beginning, said course is perpendicular to the last mentioned course.

The above-described parcel of land contains an area of 36,630 square feet, more or less (0.841 Acres).

**EXHIBIT B**

(To include a sketch displaying the boundaries of the disposal site (to the extent such boundaries have been established as of the date of this Notice) in relation to the boundaries of the Portion of the Property subject to this Notice of AUL).

*plan recorded herewith*

**EXHIBIT C**  
**ACTIVITY AND USE LIMITATION OPINION**

This Licensed Site Professional (LSP) Opinion has been prepared in accordance with the requirements of 310 CMR 40.1074(1)(B) to support a Notice of Activity and Use Limitation (AUL) for a property located at 400-440 Boston Post Road in Wayland, Massachusetts.

***Site History***

On 2 January 1996, Raytheon Electronic Systems Inc. (RES) discovered a release during the installation of MW-11 downgradient of an abandoned UST that required a 72-hour notification to the Massachusetts Department of Environmental Protection (DEP).

Raytheon requested DEP approval to implement an assessment Immediate Response Action (IRA). The results of the IRA were reported in an IRA completion report and amendment dated 4 and 28 March 1998 and recommended that additional response actions be completed as a Release Abatement Measure (RAM). The RAM was conducted during the period May through July 1998 and resulted in the removal and off-site treatment (at MTS of Chichester, NH) of approximately 3,300 cubic yards of petroleum-impacted soil. In addition, approximately 2,240 gallons of a mixture of water and #6 oil were removed from the excavation and transported off-site for treatment under a Hazardous Waste Manifest.

***Reason for Activity and Use Limitation***

Within the portion of the Property subject to this Notice of AUL, petroleum-impacted soil remained in-place at depths greater than 15 feet below grade and beneath the existing building following the completion of remedial activities at the site. No utilities exist at depths greater than six feet. The area has been backfilled with clean soil and the contaminated soil is not considered accessible.

A Method 3 Risk Characterization was conducted to support the filing of a Class A-3 Response Action Outcome for the site. The concentrations of petroleum-related compounds meet the risk criteria for current and foreseeable site use, but exceeded the residential standard, which would permit unrestricted future use.

There is no Significant Risk of harm to human health public welfare, safety or the environment for anticipated exposures to a construction worker, building occupant, visitor, nearby resident or trespasser that may be exposed to Disposal-Site related constituents under current/foreseeable or unrestricted site usage. However, since the residual levels of petroleum-related compounds in soil exceed residential criteria, an Activity and Use Limitation is required to prevent activities which could pose a future risk. The intent of the AUL is to restrict activities in the area of soil contamination so that any disruption is controlled and that the soil does not become accessible.

***Prohibited or Limited Activities and Uses***

The following Activities and Uses are prohibited or limited in the designated portion of the Property subject to this Notice of AUL:

- (i) Residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities and uses, unless such activity is first evaluated by an LSP who renders an Opinion that attests that a condition of no significant risk is maintained, consistent with the provisions of the MCP;
- (ii) Subsurface activities, including, but not limited to, excavation which may result in direct contact with, disturbance, or relocation of the petroleum-impacted soil located greater than six feet below grade, which are not consistent with Section (i) of this Notice of AUL;
- (iii) Relocation of the petroleum-impacted soil currently located greater than six feet below grade to a shallower depth, unless such activity is first evaluated by an LSP who renders an Opinion that attests that a condition of no significant risk is maintained, consistent with the provisions of the MCP; and
- (iv) Placement of wells for the withdrawal of groundwater for non-MCP purposes.

***Permitted Activities and Uses***

The following Activity and Uses are permitted in the designated portion of the Property subject to this Notice of AUL:

- (i) Commercial or industrial activities and uses, including, but not limited to, vehicular parking, pedestrian and vehicular traffic, and landscaping, which do not cause and/or result in direct contact, disturbance of, and/or relocation of, the petroleum-impacted soil currently located greater than six feet below grade;
- (ii) Shallow (less than six feet below grade) excavation activities associated with subsurface utility or construction work;
- (iii) Deep (greater than six feet below grade) excavation activities associated with subsurface utility or construction work, provided that the activities are conducted in accordance with a Soil Management Plan, and if appropriate, a Health and Safety Plan, developed in accordance with Obligation (i) by an LSP prior to the initiation of such activities, the soil management procedures of the MCP cited at 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018;
- (iv) Activities and uses which are not prohibited by this Notice of AUL; and

- (v) Such other activities or uses which, in the Opinion of the LSP, shall present no greater risk of harm to health, safety, public welfare and the environment than the activities and uses set forth in this Paragraph.

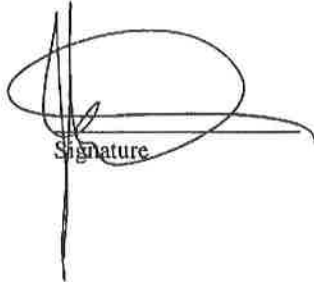
***Obligations and Conditions Set Forth in the AUL Opinion***


The obligations and conditions associated with this AUL are described below:

- (i) A Soil Management Plan, and if appropriate, a Health and Safety Plan, must be prepared by an LSP prior to initiation of any subsurface activity that may disturb petroleum-impacted soil located greater than six feet below grade within the portion of the Property subject to this Notice of AUL; and
- (ii) The petroleum-impacted soil located greater than six feet below grade within the portion of the Property subject to this Notice of AUL may not be relocated to a shallower depth with the AUL area, unless such activity is first evaluated by an LSP who renders an Opinion that attests that a condition of no significant risk is maintained, consistent with the provisions of the MCP.

***Certification***

This AUL Opinion was prepared by:

  
Signature

2196  
License Number  


2/16/99  
Date

N 80°45'4

N 80°45'43" E 752.99'

LIMIT OF REGISTERED LAND

2176.76

N/F  
WAYLAND BUSINESS  
CENTER LLC  
L.C. CERT NO. 210249  
& DEED BOOK 27977, PAGE 52

TK  
82

LAND COURT  
AREA = 5

A.U.L.  
(SEE D)

842.00' S 71°01'00" W LIMIT OF REGISTERED LAND  
842± TO RIVER  
N 11°44' 328

842 ± N/F  
DEVINS H. HAMLEN &  
JAMES M. HAMLEN  
(DEED BOOK 11937, PAGE 566)  
(ASS. MAP 22 / 10)

STONE BOUND  
w/ DRILL HOLE  
FOUND

REGISTERED LAND  
UNREGISTERED LAND

TOWN N/F  
OF WAYLAND

LOAD  
(TH)

N 74° 46' 46" W

N 15°13'14" E—  
48.63'

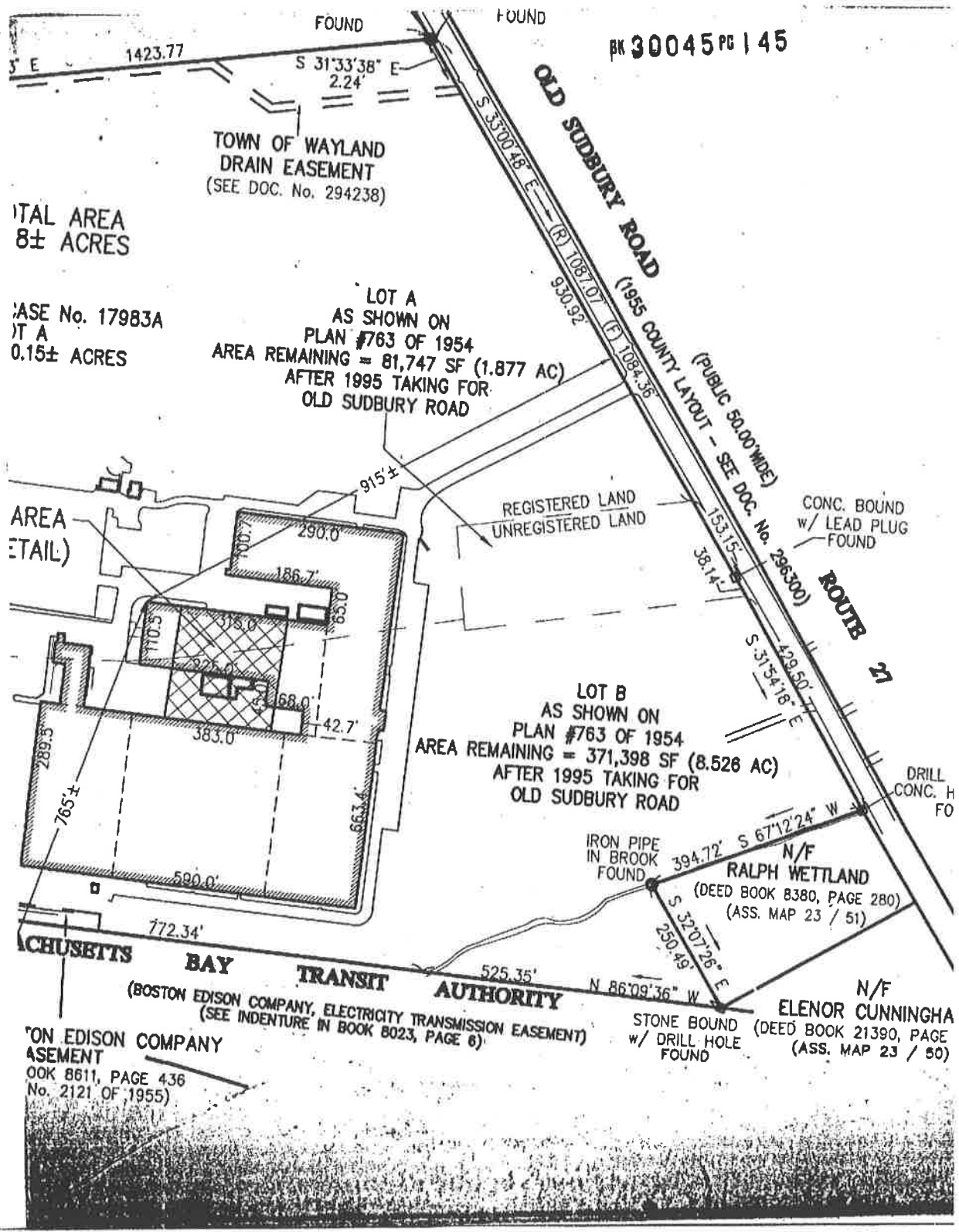
LOT C  
AS SHOWN ON PLAN No. 763 OF 1954  
AREA = 944,626 S.F. (21.686 ACRES)

STONE BOUND  
w/ DRILL HOLE  
FOUND

ROUTE 20

LOT "A"  
AS SHOWN ON PLAN No. 1721 OF 1955  
AREA = 12,811 S.F. (0.294 ACRES)  
(SEE DEED BOOK 8562, PAGE 316)

30' WIDE BC  
(SEE DEED  
AND PL)



**EXHIBIT D**  
**(BWSC Form 114, AUL Opinion Form)**





Bk: 58135 Pg: 87 Doc: NOT  
Page: 1 of 33 12/21/2011 01:15 PM

RECORDING INFORMATION AREA

## Form 1075

### NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Former Raytheon Facility, 430 Boston Post Road, Wayland, MA  
DEP Release Tracking Nos.: 3-13302 & 3-22408

This Notice of Activity and Use Limitation ("Notice") is made as of this 21<sup>st</sup> day of ~~DECEMBER~~ 2011, by Twenty Wayland, LLC, a Massachusetts limited liability company, with an address care of KGI Properties, LLC, 10 Memorial Blvd, Ste 901, Providence, RI 02903, and Wayland Town Center LLC, a Delaware limited liability company, with an address care of KGI Properties, LLC, 10 Memorial Blvd., Suite 901, Providence, RI 02903, together with their successors and assigns (collectively "Owner").

#### WITNESSETH:

WHEREAS, Twenty Wayland, LLC and Wayland Town Center LLC collectively are the owners in fee simple of that certain parcel of land located at 400-440 Boston Post Road in Wayland, Middlesex County, Massachusetts, with the buildings and improvements thereon ("Property") pursuant to a deed to Twenty Wayland, LLC recorded with the Middlesex County (South) Registry of Deeds in Book 45981, Page 177 and filed with the Middlesex County (South) Registry District of the Land Court as Document No. 1386382 (see Certificate of Title No. 234881), and a deed of a portion of said land by Twenty Wayland, LLC to Twenty Wayland Commercial LLC recorded with the Middlesex County (South) Registry of Deeds in Book 57767, Page 545, and a subsequent deed of such portion of said land from Twenty Wayland Commercial LLC to Wayland Town Center LLC recorded with the Middlesex County (South) Registry of Deeds in Book 57767, Page 547.

WHEREAS, the Property is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof. The Property is shown on a sketch plan attached hereto (titled, "Exhibit A: Sketch Plan") and filed herewith for registration with the

1  
dup in LA ct

400-440 Boston Post Rd., Wayland, MA

03-33

Middlesex County (South) Registry District of the Land Court and recorded herewith with the Middlesex County (South) Registry of Deeds.

WHEREAS, a portion of the Property is subject to this Notice of Activity and Use Limitation ("Portion of the Property"). The Portion of the Property is more particularly bounded and described in Exhibit A-1, attached hereto and made a part hereof. The Portion of the Property is shown on a plan recorded with the Middlesex County (South) Registry of Deeds in Plan Book <sup>Year</sup> 2011, Plan 860, and on a sketch plan attached hereto (titled, "Exhibit A-1: Sketch Plan") and filed herewith for registration and recorded herewith.

WHEREAS, the Property comprises part of a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Portion of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof.

WHEREAS, one or more response actions have been selected for the Property in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated DECEMBER 14, 2011 (which is attached hereto as Exhibit C and made a part hereof).

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL Opinion are as follows:

1. Activities and Uses Consistent with the AUL Opinion. The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare or the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:
  - (i) The Portion of the Property may be used for passive recreation;
  - (ii) The Portion of the Property may be used for commercial/industrial uses;
  - (iii) Such other activities or uses which, in the opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and
  - (iv) Such other activities and uses consistent with those set forth in this

Paragraph and not expressly prohibited by this Notice.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:
  - (i) Residential, with the exception of up to 12 units on the second floor of a building located in the "Building 2F Building Envelope," as shown on Exhibit D, so long as there is an appropriate sub-slab vapor barrier installed;
  - (ii) Childcare, daycare, agricultural, horticultural, or gardening, unless previously approved by the LSP in accordance with the obligations and conditions set forth in the AUL Opinion;
  - (iii) Groundwater withdrawal or use except for assessment or remedial purposes;
  - (iv) Septic systems unless previously approved by the LSP in accordance with the obligations and conditions set forth in the AUL Opinion;
  - (v) Other activities or uses that, in the opinion of the LSP, would likely result in significant risk from exposures to oil and/or hazardous material if such activities or uses were to take place on the Portion of the Property.
3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:
  - (i) Certification in the form of documentation bearing the original signature, date and Seal of the LSP must be obtained by the Owner prior to implementation of the following activities and uses:
    - a) Expansion or relocation of existing buildings;
    - b) Use of the Portion of the Property for residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities, or for unrestricted public access;
    - c) Subsurface activities, including excavation or new construction below grade; and

- d) Land development or construction involving changes in surface conditions (i.e., topography, surface cover, etc.), including installation of pavement or building foundations;
- (ii) Parties conducting activities and uses described in Section 1 above, that, in the opinion of the LSP, may include disturbance of contaminated media, waste or debris, or that could render subsurface contaminated media, waste or debris accessible to exposure, shall submit, for approval by the LSP, a contingency plan for the management of contaminated media, waste or debris, if encountered, including:
    - a) Procedures for monitoring of contaminated media, waste or debris;
    - b) Procedures for notification to the LSP of the discovery of contaminated media, waste or debris;
    - c) A certification that all response actions will be conducted under the supervision of the LSP;
    - d) A soils management plan including contingencies for handling contaminated soil and/or groundwater if activities may extend below the water table;
    - e) A certification that response personnel will comply with applicable safety regulations, including 29 CFR 1910.120; and
    - f) A certification that contaminated waste, debris or media or remediation waste (pursuant to 310 CMR 40.0000) generated by such activities shall be handled, stored, transported and disposed in accordance with the applicable federal, state and local regulations;
  - (iii) The responsible parties and their representatives shall be granted unrestricted access to the Property in order to conduct any and all activities associated with the performance of response actions as defined under the MCP, or any other applicable regulation;
4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by an LSP who shall render an opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. Any and all requirements set forth in

the opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by an LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by an LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed. All exhibits attached hereto are hereby incorporated herein by reference.

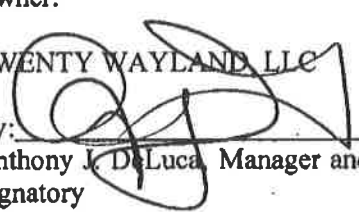
Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

*[Remainder of page intentionally left blank; signature blocks follow on next page]*

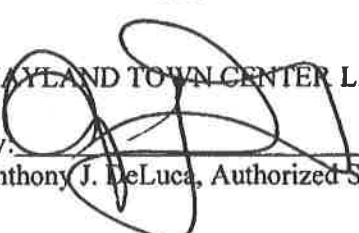
WITNESS the execution hereof under seal this 31 day of October, 2011.

Owner:

TWENTY WAYLAND LLC

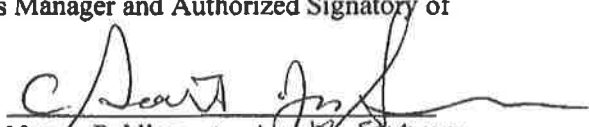
By:   
Anthony J. DeLuca, Manager and Authorized  
Signatory

WAYLAND TOWN CENTER LLC

By:   
Anthony J. DeLuca, Authorized Signatory

Providence, ss. STATE OF RHODE ISLAND  
COMMONWEALTH OF MASSACHUSETTS

On this 31 day of October, 2011, before me, the undersigned, a Notary Public, personally appeared Anthony J. DeLuca, and proved to me through satisfactory evidence of identification, which was a MA driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Manager and Authorized Signatory of Twenty Wayland, LLC.

  
Notary Public Scott Joseph Sumner  
My Commission Expires: 7-11-13  
[SEAL]

Providence,  
STATE OF RHODE ISLAND  
~~COMMONWEALTH OF MASSACHUSETTS~~

On this 31 day of October, 2011, before me, the undersigned, a Notary Public, personally appeared Anthony J. DeLuca, and proved to me through satisfactory evidence of identification, which was a MA driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Authorized Signatory of Wayland Town Center LLC.

C. J. DeLuca  
Notary Public:

My Commission Expires: 7-11-13

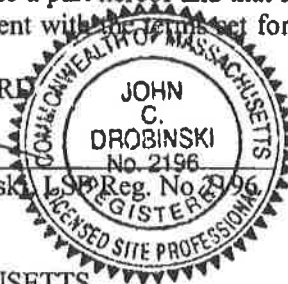
[SEAL]

The undersigned LSP hereby certifies that he executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in his opinion this Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: 12/14/, 2011

LSP OF RECORD

John C. Drobinski, LSP Reg. No. 2196  
[LSP SEAL]



Middlesex, ss

COMMONWEALTH OF MASSACHUSETTS

On this 14<sup>TH</sup> day of December, 2011, before me, the undersigned notary public, personally appeared John C. Drobinski, proved to me through satisfactory evidence of identification, which were personally known, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Mary A. McCormack  
Notary Public:

My Commission Expires: 8/3/18

[SEAL]

Upon recording, return to:

RIKHEMNAN SAWYER & BROWSTER  
100 FEDERAL STREET  
BOSTON, MA. 02110  
ATTN: D.J. OSSOFF



MARY A. MCCORMACK  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
August 3, 2018

## EXHIBIT A

### Description of the Property owned by Twenty Wayland, LLC

The following described land situated in Wayland, Middlesex County, Massachusetts, and bounded and described as follows:

#### Parcel One:

The land in said Wayland situated on the westerly side of Sudbury Road, being that parcel of land enclosed by lines and marked "A" on a plan by Rowland H. Barnes & Co., C.E.'s dated December, 1940 on file at the Engineers' Office for the Land Court in Boston, said plan being Plan #17983A, filed with Certificate #49312, Book 326, Page 97, in the South Registry District for Middlesex County, said parcel being bounded and described as follows:

NORTHEASTERLY by the westerly side of Sudbury Road, 931.66 feet;  
SOUTHERLY by land formerly of Grace A. and Blanche E. Heard, 413.88 feet;  
EASTERLY by land formerly of said Heard, 162.99 feet;  
SOUTHERLY by land formerly of Wentzel, 1,017.69 feet;  
WESTERLY by land formerly of Wentzel, 211.30 feet;  
SOUTHERLY by land formerly of Wentzel, 622.50 feet;  
WESTERLY by land of Mainstone Farm Trust, 328.00 feet;  
SOUTHERLY again by land of said Trust, 842 plus or minus feet;  
WESTERLY by Sudbury River; and  
NORTHERLY by land now or formerly of Ruth N. Burbank, 2,185 plus or minus feet.

Meaning and intending to describe the remaining portion of parcel "A," being Lot 1 on Land Court Plan #17983G dated May 29, 2000, revised August, 2000.

#### Parcel Two

A certain parcel of land shown as Lots "B" and "C" on a Plan of Land in Wayland-Mass., Scale 1" = 100', May 14, 1954, Albert A. Miller, Wilbur C. Nylander, Civil Engr's & Surveyors - Lexington, Mass., recorded with Middlesex South District Registry of Deeds as Plan #763 of 1954, Book 8256, Page 439 and together bounded as follows:

NORTHEASTERLY by Sudbury Road by two lines measuring together 429 and 54/100 feet;

SOUTHEASTERLY by land shown on said plan as Audrey A. and Natile K. Bill by the middle of a brook 403 and 75/100 feet;

NORTHEASTERLY by the same 250 and 49/100 feet;

SOUTHERLY by land or location of Boston & Maine Railroad as shown on said plan by six lines measuring together 2,064 and 94/100 feet and by State Highway (Route 20) 438 and 92/100 feet;

WESTERLY by land shown on said plan as Town of Wayland 48 and 53/100 feet;

SOUTHERLY by the same 117 and 21/100 feet;

WESTERLY by land shown on said plan as Commonwealth of Massachusetts 1 and 37/100 feet;

SOUTHERLY by the same 123 and 73/100 feet;

NORTHERLY by land shown on said plan as Mainstone Farm Trust 549 and 52/100 feet and by land formerly of Joseph H. Decatur by two lines measuring together 622 and 50/100 feet;

NORTHEASTERLY and NORTHERLY by land formerly of Martin Cerel and David Yorks by eight lines shown on said plan as a stone wall measuring together 1,228 and 99/100 feet;

EASTERLY by land formerly of Blanche E. Heard and shown as "Parcel A" on said plan 20 and 00/100 feet;

NORTHERLY by the same 499 and 89/100 feet.

#### Parcel Three:

A certain parcel of land shown as Lot "A" on said Plan of Land in Wayland – Mass., Scale 1" = 100', May 14, 1954, Albert A. Miller, Wilbur C. Nylander, Civil Engr's & Surveyors - Lexington, Mass., and bounded as follows:

NORTHEASTERLY by Sudbury Road by two lines measuring together 192 and 87/100 feet;

SOUTHERLY by land formerly of Herbert S. Wentzel and Mary E. Wentzel, shown on said plan and Parcel "B" 499 and 89/100 feet;

WESTERLY by land formerly of said Wentzel, 20 and 00/100 feet and by land formerly of Martin Cerel and David Yorks by a line as shown on said plan as a stone wall 182 and 99/100 feet;

NORTHERLY by land of the same 413 and 88/100 feet.

#### Parcel Four:

A certain parcel of land situated in said Wayland bounded and described as follows:

Beginning on land of the Boston & Maine Railroad and at other land formerly of Raytheon Manufacturing Company at a point 41 and 25/100 feet northerly from Station 699 plus 00 on the center line of location of the Central Massachusetts Branch of said Boston & Maine Railroad, measuring at rights angles thereto, thence running South 80° 25' 30" West by said other land of said Railroad 627 and 50/100 feet to a point at said land formerly of Raytheon Manufacturing Company; thence turning and running by said last-mentioned land on three courses as follows: North 73° 07' 40" East 204 and 66/100 feet, North 78° 40' 30" East 239 and 11/100 feet and South 89° 24' East 188 and 47/100 feet to the point of beginning, be all of said measurements more or less, said parcel containing about 12,811 square feet and being shown upon plan marked "Land in Wayland, Mass. Boston & Maine Railroad - To - Raytheon Manufacturing Company J.F. Kerwin, Eng'r of Design, April, 1955" recorded with Middlesex South Registry of Deeds as Plan #1721 of 1955 in Book 8562, Page 316.

Excepting and excluding the following parcels of land:

Parcel A shown on Land Court Plan No. 17983-G dated May 29, 2000, revised August 25, 2000.

Lot 2 and Lot 3 shown on Land Court Plan No. 17983-G dated May 29, 2000, revised August 25, 2000. *(deregistered by doc # 183898-Lot 2; doc # 1500461 L.L.S. 8, 5 & 6)*

Lot AB-1 shown on plan dated May 1, 2000, and recorded as Plan No. 1426 of 2000 in Book 32174, Page 142.

A certain parcel acquired by the Town of Wayland by an Order of Taking filed with the Middlesex South Registry District of the Land Court as Document No. 1558125.

**All of the above also being more particularly bounded and described as follows:**

A certain parcel of Registered and Unregistered land situated on the northerly side of Boston Post Road in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point in the northerly line of Boston Post Road (Route 20) at the intersection of the northerly line of the former railroad N/F of the MBTA: thence

N 74°46'46" W	a distance of four hundred thirty eight and ninety-two hundredths feet (438.92') by the said northerly line of Boston Post Road to a point; thence
N 15°13'14" E	a distance of forty-eight and sixty three hundredths feet (48.63') to a point; thence
N 74°46'46" W	a distance of one hundred seventeen and twenty-one hundredths feet (117.21') to a point; thence
N 15°13'14" E	a distance of one and thirty-seven hundredths feet (1.37') to a point; thence

N 74°46'46" W	a distance of one hundred twenty three and seventy-three hundredths feet (123.73') to a point; thence
N 71°29'32" E	a distance of five hundred forty nine and seventy-eight hundredths feet (549.78') to a point; thence
N 11°48'20" W	a distance of three hundred twenty eight and no hundredths feet (328.00') to a point; thence
S 71°01'00" W	a distance of eight hundred forty two feet, more or less (842') to a point at the Sudbury River; thence
Northerly	a distance of seven hundred sixty two feet, more or less (762') by the Sudbury River to a point; thence
N 80°45'43" E	a distance of one thousand one hundred seventy nine feet, more or less (1179') to a point; thence
S 33°00'48" E	a distance of four hundred sixty six and twenty four hundredths feet (466.24') to a point; thence
S 86°08'20" E	a distance of seven hundred thirty six and twenty four hundredths feet (736.24') to a point; thence
S 42°30'55" E	a distance of one hundred ninety and sixty hundredths feet (190.60') to a point; thence
N 59°03'55" E	a distance of three hundred fifty and eighty eight hundredths feet (350.88) to a point; thence
Northerly	and curving to the left along the arc of a curve having a radius of fifteen and no hundredths feet (15.00'), a distance of twenty four and eleven hundredths feet (24.11') to a point in the southwesterly line of Old Sudbury Road; thence
S 33°00'47" E	a distance of ninety and three hundredths feet (90.03') by the said southwesterly line of Old Sudbury Road to a point; thence
Westerly	and curving to the left along the arc of a curve having a radius of fifteen and no hundredths feet (15.00'), a distance of twenty three and two hundredths feet (23.02') to a point; thence
S 59°03'55" W	a distance of three hundred forty one and eighty six hundredths feet (341.86') to a point; thence
S 42°30'55" E	a distance of sixty three and forty hundredths feet (63.40') to a point; thence
S 03°51'08" W	a distance of seven hundred ninety three and sixty five hundredths feet (793.65') to a point in the northerly line of the Massachusetts Bay Transportation Authority; thence
N 86°09'36" W	a distance of one thousand five hundred thirty four and eighty three hundredths feet (1534.83') by the said northerly line of the M.B.T.A. to the point of beginning.

The above described parcel of land contains an area of 56.9 acres, more or less.

Excluded from the above described premises is a certain parcel of land shown as "N/F Town of Wayland, Parcel A" as shown on Plan No. 1206 of 1999. Said Parcel A was acquired by the town of Wayland by an Order of Taking filed as L.C. Document # 1122165, recorded in Deed Book 30797, Page 5. Said Parcel A which lies completely within the previously described parcel and consists of the existing sewer treatment plant, is bounded and described as follows:

Beginning at a point at the northwesterly corner of the hereinafter described premises, said point being located S 86° 08' 20" E a distance of two hundred eighty nine and thirty seven hundredths feet (289.37') and thence S 04° 38' 36" W a distance of one hundred seventy two and seventy four hundredths feet (172.74') from a concrete bound w/ drill hole set at a northerly corner of the aforementioned described premises; thence

S 85°21'24" E                      a distance of one hundred seventeen and no hundredths feet (117.00') to a point; Thence

S 04°38'36" W                      a distance of one hundred sixty three and no hundredths feet (163.00') to a point; Thence

N 85°21'24" W                      a distance of one hundred seventeen and no hundredths feet (117.00') to a point; Thence

N 04°38' 36" E                      a distance of one hundred sixty three and no hundredths feet (163.00') to the point of beginning.

The above described premises contains an area of 19,071 square feet.

Also excluded from the above described premises is a certain parcel acquired by the Town of Wayland by an Order of Taking filed as L.C. Document # 1558125.

[End]

**EXHIBIT A: SKETCH PLAN**

**Sketch Plan of the Property owned by Twenty Wayland, LLC**

**[SEE ATTACHED]**



**EXHIBIT A-1**

**Description of Portion of the Property**

**subject to this Notice of Activity and Use Limitation**

A certain parcel of land located on the property owned now or formerly by Twenty Wayland, LLC situated northerly of Boston Post Road (Route 20) and westerly of Old Sudbury Road (Route 27) in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a stone bound found on the northerly side of Boston Post Road (Route 20) at the intersection of the northerly line of the railroad right of way now or formerly of the Massachusetts Bay Transit Authority; thence

N 55°10'40" E      a distance of One Hundred Four and Seventy Hundredths feet  
(104.70') to a point; thence

N 03°50'24" E      a distance of Fifty Two and Eighty Seven Hundredths feet  
(52.87')  
to a point; thence

Northerly      and curving to the right along the arc of a curve having a radius  
of Two Hundred Thirty Three and Zero Hundredths feet  
(233.00'), a length of One Hundred Twelve and Forty Two  
Hundredths feet (112.42') to a point; thence

Northeasterly      and curving to the right along the arc of a curve having a radius  
of One Hundred Twenty Nine and Ninety Five Hundredths feet  
(129.95') , a length of Seventy Three and Forty Hundredths feet  
(73.40') to a point; thence

N 63°50'24" E      a distance of One Hundred Nine and Sixty Three Hundredths  
feet (109.63') to a point; thence

N 26°09'36" W      a distance of Thirty Six and Seventy Nine Hundredths feet  
(36.79') to a point; thence

Northerly      and curving to the right along the arc of a curve having a radius  
of Four Hundred Sixty Two and Sixty One Hundredths feet  
(462.61'), a length of One Hundred Sixty One and Five  
Hundredths feet (161.05') to a point; thence

N 71°03'32" E	a distance of Forty Six and Seventy Two Hundredths feet (46.72') to a point; thence
N 76°50'11" E	a distance of Two Hundred Sixteen and Two Hundredths feet (216.02') to a point; thence
Easterly	and curving to the right along the arc of a curve having a radius of One Hundred Eleven and Thirty Six Hundredths feet (111.36'), a length of Thirty Three and Thirteen Hundredths feet (33.13') to a point; thence
S 86°09'36" E	a distance of Two Hundred Nine and Forty Three Hundredths feet (209.43') to a point; thence
Northerly	and curving to the right along the arc of a curve having a radius of Five Hundred Twenty and Zero Hundredths feet (520.00'), a length of Two Hundred Fifty One and Eighty Three Hundredths feet (251.83') and a chord length of Two Hundred Forty Nine and Thirty Eight Hundredths feet (249.38') with a chord bearing of N 19°33'54" E to a point; thence
N 03°50'24" E	a distance of One Hundred Nineteen and Thirty Eight Hundredths feet (119.38') to a point; thence
N 86°08'20" W	a distance of Eight Hundred Seventy Five and Thirty One Hundredths feet (875.31) to a point; thence
S 06°55'42" W	a distance of Five Hundred Fifteen and Fifteen Hundredths feet (515.15) to a point at land now or formerly of Raytheon Company; thence
N 11°48'20" W	a distance of Two Hundred Seventy and Seventy Six Hundredths feet (270.76') to a stone bound; thence
S 71°01'00" W	a distance of Eight Hundred Forty Two feet more or less (842'+/-) to a point along the easterly edge of the Sudbury River (the previous two (2) courses are by said land of Raytheon Company); thence
Northerly	along said easterly edge of the Sudbury River a distance of Seven Hundred Sixty Two feet more or less (762'+/-) to a point at land now or formerly of The United States of America Fish and Wildlife; thence

N 80°45'43" E	by land of said United States of America Fish and Wildlife and land now or formerly of the Town of Wayland a distance of Eight Hundred Thirty Three feet more or less (833'+/-) to a concrete bound found; thence
N 80°45'43" E	continuing by said land of The Town of Wayland a distance of Three Hundred Forty Five and Fifty Nine Hundredths feet (345.59') to a point at land now or formerly of Wayland Meadows Limited Partnership; thence
S 33°00'48" E	a distance of Four Hundred Sixty Six and Twenty Four Hundredths feet (466.24') to a concrete bound found; thence
S 86°08'20" E	a distance of Seven Hundred Thirty Six and Twenty Four Hundredths feet (736.24') to a concrete bound found; thence
S 42°30'55" E	a distance of One Hundred Ninety and Sixty Hundredths feet (190.60') to a point; thence
N 59°03'55" E	a distance of One Hundred Nine and Eighty Six Hundredths feet (109.86') to a point (the previous four (4) courses are by said land of Wayland Meadows Limited Partnership); thence
S 03°51'48" W	through said land now or formerly of Twenty Wayland, LLC a distance of Seventy Three and Three Hundredths feet (73.03') to a point at other land now or formerly of Wayland Meadows Limited Partnership; thence
S 59°03'55" W	a distance of Fifty Five and Eighty Nine Hundredths feet (55.89') to a point; thence
S 42°30'55" E	a distance of Sixty Three and Forty Hundredths feet (63.40') to a point; thence
S 03°51'08" W	a distance of Seven Hundred Ninety Three and Sixty Five Hundredths feet (793.65') to a stone bound found along the northerly line of the railroad right of way now or formerly of the Massachusetts Bay Transit Authority ( the previous three (3) courses are by said other land of Wayland Meadows Limited Partnership); thence

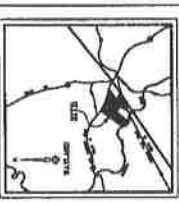
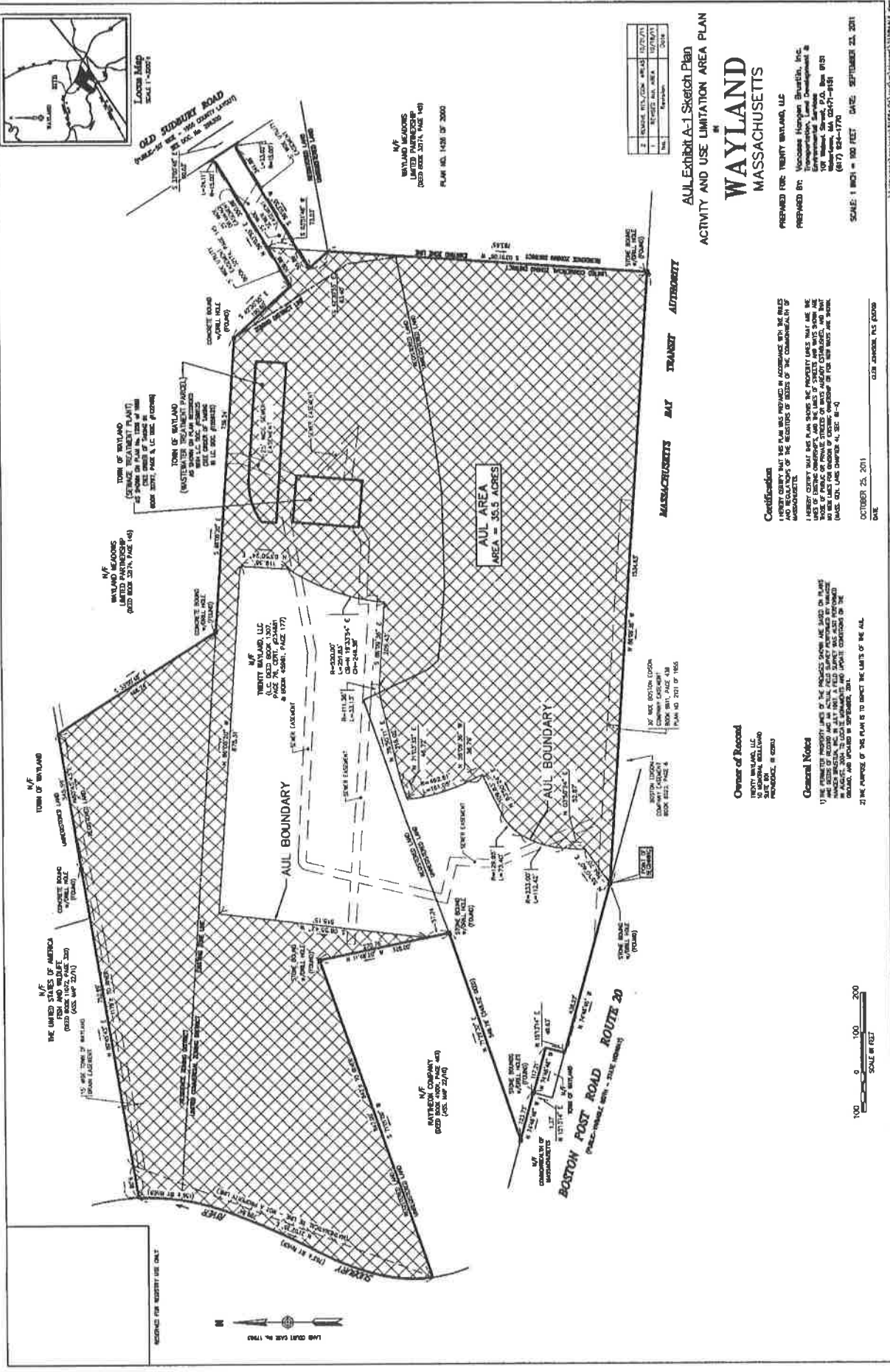
N 86°09'36" W      along said Northerly line of the railroad right of way a distance  
of One Thousand Five Hundred Thirty Four and Eighty Three  
Hundredths feet (1,534.83') to a point at the point of beginning.

The above described parcel contains an area of 35.5 acres more or less.

**EXHIBIT A-1: SKETCH PLAN**

**Sketch Plan of the Portion of the Property**  
**subject to this Notice of Activity and Use Limitation**

**[SEE ATTACHED]**



**Legend:**

- 1. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)
- 2. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)
- 3. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)

**Owner of Record:**

TWENTY WAYLAND, LLC  
100 WILSON STREET, SUITE 200  
WAYLAND, MASSACHUSETTS 01981

**General Notes:**

1. THE PROPERTY LINES OF THE PROJECTED AREAS ARE BASED ON THE RECORD MAPS AND THE RECORD MAPS HAVE BEEN RECORDED IN THE PUBLIC RECORDS OF THE COMMONWEALTH OF MASSACHUSETTS.

2. THE PURPOSE OF THIS PLAN IS TO SHOW THE LOTS OF THE AUL.

**Scale:** 1" = 100 FEET

**Date:** OCTOBER 25, 2011

**Prepared by:** CLERK JENNIFER P. JONES

**Legend:**

- 1. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)
- 2. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)
- 3. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)

**Owner of Record:**

TWENTY WAYLAND, LLC  
100 WILSON STREET, SUITE 200  
WAYLAND, MASSACHUSETTS 01981

**General Notes:**

1. THE PROPERTY LINES OF THE PROJECTED AREAS ARE BASED ON THE RECORD MAPS AND THE RECORD MAPS HAVE BEEN RECORDED IN THE PUBLIC RECORDS OF THE COMMONWEALTH OF MASSACHUSETTS.

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**Scale:** 1" = 100 FEET

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**Legend:**

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- 2. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)
- 3. TWENTY WAYLAND, LLC (2020 DEC 30/21, PAGE 140)

**EXHIBIT B**

Sketch plan showing the relationship of the Portion of the Property  
subject to this Notice of Activity and Use Limitation  
to the boundaries of the disposal site

**[SEE ATTACHED]**



**EXHIBIT C**

**AUL Opinion**

**[SEE ATTACHED]**

## **EXHIBIT C**

### **ACTIVITY & USE LIMITATION OPINION**

#### **BOSTON POST ROAD, WAYLAND, MASSACHUSETTS**

This Activity and Use Limitation (AUL) Opinion is issued in support of the Notice of Activity and Use Limitation (Notice) filed on the parcels located at 430 Boston Post Road, Wayland, Massachusetts (the "Property"). Pursuant to 310 CMR 40.0000, this AUL Opinion describes the basis for restrictions in activities on, and uses of, the portion of the Property subject to the Notice and obligations and conditions to be undertaken and/or maintained to ensure protection of health, safety, public welfare and the environment. This AUL Opinion is certified by the Licensed Site Professional (LSP)-of-Record for Comprehensive Response Actions conducted in accordance with Permit No. 133939 for Release Tracking Number (RTN) 3-13302 and Permit No. W045278 for RTN 3-22408, issued under the authority of the Massachusetts Department of Environmental Protection (MassDEP), Bureau of Waste Site Cleanup.

#### **1.0**

#### **PHYSICAL DESCRIPTION AND LAND USE**

The subject lands (Exhibit A to Notice) are a portion of the entire Property which is an approximately 83-acre parcel located at 430 Boston Post Road in Wayland, Massachusetts (Lot 23-52 and Lot 23-52C). The Property consists of two lots and is bounded to the west by the Sudbury River and Lot 22-10, to the north by undeveloped land including the Great Meadows National Wildlife Refuge, to the east by Lots 23-52E through 23-52M, and to the South by Route 20/Boston Post Road and a Massachusetts Bay Transit Authority right-of-way.

Prior to 1955 the Property was a wetland, floodplain, and farmland. Subsequent to 1955, the Property was used as an engineering research and development facility that was decommissioned in 1995. Portions of the Property are currently a wetland and floodplain subject to the restrictions of the Wetlands Protection Act.

## 2.0

### **BACKGROUND**

Releases of oil and/or hazardous materials (OHM) to soil and groundwater were discovered on the Property during decommissioning of the former Raytheon Company facility. Concentrations of OHM were discovered on the Property during environmental investigation for RTNs 3-13302 and 3-22408. Massachusetts General Law, Chapter 21E, requires assessment and, if necessary, remedial actions in accordance with requirements of the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000.

The MCP process allows up to 5 years for completion of those phases of assessment and/or remediation that are necessary to achieve regulatory closure. Assessment and/or remediation activities are conducted as "Comprehensive Response Actions" under the direction of the LSP-of-Record. Upon satisfying all applicable MCP requirements, a Response Action Outcome (RAO) Statement, certified by the LSP, is filed with the MassDEP Bureau of Waste Site Cleanup, officially closing the site out of the MCP process. Once closure is obtained it is binding, subject, however, to MassDEP audit for up to 5 years from the date of filing.

## 3.0

### **PURPOSE AND APPLICABILITY OF THE NOTICE OF ACTIVITY AND USE LIMITATION**

The purpose of the Notice is to record on the registered property deed those activities and land uses that are consistent with continued protection of health, safety, public welfare and the environment, and those that are specifically prohibited and obligations and conditions necessary to ensure continued protection.

The Notice is applicable to the portion of the Property (Portion of the Property) as defined in Exhibit A-1 to the Notice.

The Notice of AUL is recorded by the Property owner as a precautionary measure to ensure appropriate use of the Property. In all cases, the LSP shall review this Notice of AUL and, if appropriate, terminate or amend this Notice of AUL prior to approval and filing of a RAO for the Property, or any portion thereof. All approvals and opinions required by a LSP to maintain compliance with this Notice and AUL Opinion shall be restricted to the LSP-of-Record for Comprehensive Response Actions, and any termination or amendment of this Notice of AUL pursuant to the prior sentence shall be based upon an opinion of the LSP-of-Record, only.

#### 4.0

#### **SUMMARY OF PCB IMPACTS, REMEDIAL ACTION, AND USE RESTRICTIONS ON PROPERTY**

A remedial action was implemented within the wetland portions of two parcels (Lot 23-52C and Lot 22-10) that comprise a portion of the Property and land adjacent to the Property. This remedial action consisted of excavating wetland soils for removal of polycyclic aromatic hydrocarbons (PAHs) and associated petroleum hydrocarbons, polychlorinated biphenyls (PCBs), and heavy metals (chromium, copper, arsenic, silver, and lead). The remedial action activities are summarized below.

##### *Pre-Excavation Extent and Concentrations of Contamination in Remediation Area*

The primary source of impact to wetland sediments appeared to be historic releases of OHM to the storm water conveyance system, discharging at the storm water outfall OF-1. The primary contaminants of concern (COCs) identified in source structures (dry wells and manholes) connected to the storm water conveyance system included PAHs and associated petroleum hydrocarbons, PCBs, and heavy metals (chromium, copper, arsenic, silver, and lead). Evaluation of the average concentrations of primary COCs versus distance from the outfall indicated concentrations were highest near the outfall, decreasing sharply within 200 feet from the outfall and then approaching background near the Sudbury River. The vertical extent of impact appeared to be largely limited to the top 18 inches of sediment, although local variations were noted. The sediment layer is confined by an underlying, silt and clay unit beneath the wetland.

Correlation of areas impacted by COCs in sediment with the results of vegetative mapping and analysis of plant tissue defined an area of stunted vegetation estimated at approximately 0.6 acres. This condition constituted a condition of "readily apparent harm", defined by 310 CMR 40.0955(3) as "stressed vegetation attributable to Site OHM" and is

interpreted to reflect the toxicity of heavy metals (e.g., chromium) to plants.

Specific details regarding the remediation area for the Toxic Substance Control Act (TSCA; 40 CFR 750 and 761) were presented in the Application for Risk-Based Disposal Approval submitted on 23 December 2002 (revisions and additional information submitted on 3 April 2003, 8 May 2003, and 28 August 2003) and the Phase IV Remedy Implementation Plan dated 27 December 2002. The Application for Risk-Based Disposal was approved by the U.S. EPA in a letter dated 2 October 2003.

#### *Description of Remedial Actions Undertaken in Remediation Area*

Comprehensive Remedial Actions were completed from October 2003 through October 2004 on the Property. Remedial activities required the excavation of approximately 3,500 cubic yards of sediment material from an area of 0.9 acres on the Property to a depth of approximately 2.4 feet. Following verification sampling of the excavated area, engineered soil was brought in as fill and the remediation area was largely returned to its original grades. The total PCBs concentration remaining was calculated from the results of confirmation sampling by summing analytical detections of PCBs and substituting one-half the method detection limit for samples without detections.

Wetland restoration was completed on 20 February 2004 using the planting specifications submitted in the permit applications. Minor substitutions were made based on species availability at that time of year. All substitutions were made using comparable species and were planted in the same zones. Wetlands monitoring, along with additional plantings and invasive species control, continued through 2008.

#### *Description of Use Restrictions for the Remediation Area*

Remediation and restoration of the wetland area provides a level of protection to human health consistent with U.S. EPA guidance. It restores the affected Portion of the Property to a condition of "no significant risk", meets the MCP performance standards for filing a Response Action Outcome and represents a Permanent Solution for the affected Portion of the Property.

The U.S. EPA approval for risk-based PCB remediation contained a provision requiring a Deed Notice or AUL be applied to the Property.

**5.0**

***PERMITTED ACTIVITIES AND USES SET FORTH IN THIS AUL  
OPINION***

This AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare and the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

- (i) The Portion of the Property may be used for passive recreation;
- (ii) The Portion of the Property may be used for commercial/industrial uses;
- (iii) Such other activities or uses which, in the opinion of the LSP, shall present no greater risk of harm to health, safety, public welfare and the environment than the activities and uses set forth in this Paragraph;
- (iv) Such other activities and uses consistent with those set forth in this Paragraph and not expressly prohibited by this Opinion.

**6.0**

***ACTIVITIES AND USES INCONSISTENT WITH THIS AUL OPINION***

Activities and uses which are inconsistent with the objectives of the Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) Residential, with the exception of up to 12 units on the second floor of a building located in the "Building 2F Building Envelope" as shown on Exhibit D to the Notice, so long as there is an appropriate sub-slab vapor barrier installed;
- (ii) Childcare, daycare, agricultural, horticultural, or gardening, unless previously approved by the LSP in accordance with the obligations and conditions set forth in this AUL Opinion;
- (iii) Groundwater withdrawal or use on the Portion of the Property except for assessment or remedial purposes;

- (iv) Septic systems unless previously approved by the LSP in accordance with the obligations and conditions set forth in this AUL Opinion;
- (v) Other activities or uses that, in the opinion of the LSP, would likely result in significant risk from exposures to oil and/or hazardous material if such activities or uses were to take place on the Portion of the Property.

## 7.0

### ***OBLIGATIONS AND CONDITIONS SET FORTH IN THIS AUL OPINION***

If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in this AUL Opinion shall include the following:

- (i) Certification in the form of documentation bearing the original signature, date and Seal of the LSP must be obtained by the Owner prior to implementation of the following activities and uses:
  - a) Expansion or relocation of existing buildings;
  - b) Use of the Portion of the Property for residential, childcare, daycare, recreational, agricultural, horticultural, or gardening activities, or for unrestricted public access;
  - c) Subsurface activities, including excavation or new construction below grade; and
  - d) Land development or construction involving changes in surface conditions (i.e., topography, surface cover, etc.), including installation of pavement or building foundations;
- (ii) Parties conducting activities and uses described in 5.0 above, that, in the opinion of the LSP, may include disturbance of contaminated media, waste or debris, or that could render subsurface contaminated media, waste or debris accessible to exposure, shall submit, for approval by the LSP, a contingency plan for the management of contaminated media, waste or debris, if encountered, including:
  - a) Procedures for monitoring of contaminated media, waste or debris;
  - b) Procedures for notification to the LSP of the discovery of contaminated media, waste or debris;

- c) A certification that all response actions will be conducted under the supervision of the LSP;
  - d) A soils management plan including contingencies for handling contaminated soil and/or groundwater if activities may extend below the water table;
  - e) A certification that response personnel will comply with applicable safety regulations, including 29 CFR 1910.120; and
  - f) A certification that contaminated waste, debris or media or remediation waste (pursuant to 310 CMR 40.0000) generated by such activities shall be handled, stored, transported and disposed in accordance with the applicable federal, state and local regulations;
- (iii) The responsible parties and their representatives shall be granted unrestricted access to the Property in order to conduct any and all activities associated with the performance of response actions as defined under the MCP, or any other applicable regulation.

8.0

### **CERTIFICATION**

The undersigned LSP-of-Record hereby certifies that the terms of this Activity and Use Limitation Opinion are consistent with those of the Notice for the subject Property located at 430 Boston Post Road, Wayland, Massachusetts.

Date: 12/14, 2011

John C. Drobinski

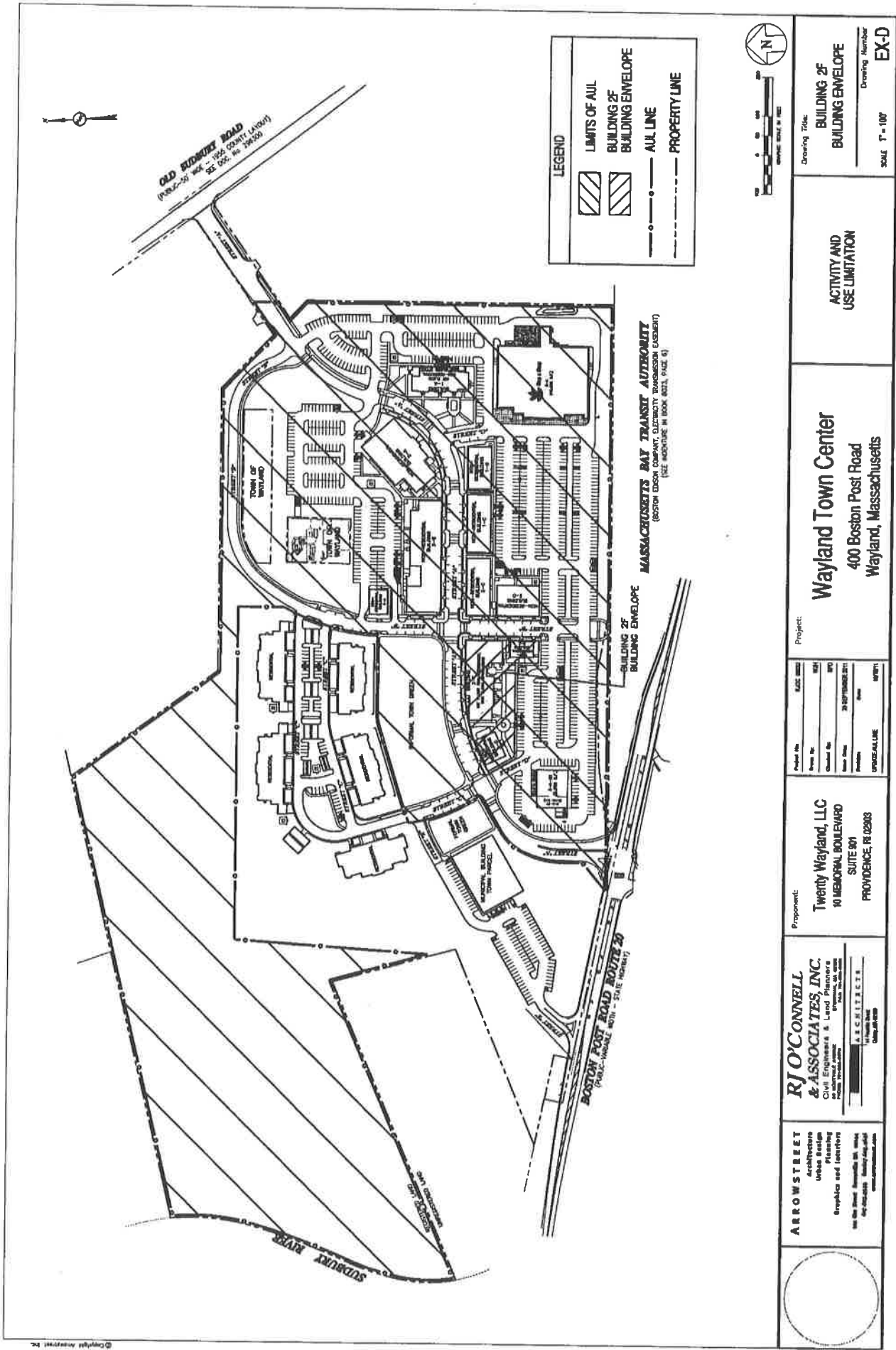


**EXHIBIT D**

**Plan showing "Building 2F Building Envelope"**

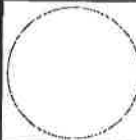
**[SEE ATTACHED]**

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**Proposed:**  
Twenty Wayland, LLC  
10 MEMORIAL BOULEVARD  
SUITE 901  
PROVIDENCE, RI 02903

**Project:**  
Project No. 1000  
Drawn By: JRM  
Checked By: JRM  
Date: 10/10/03  
Project No. 1000  
Drawn By: JRM  
Checked By: JRM  
Date: 10/10/03

**Project:**  
Wayland Town Center  
400 Boston Post Road  
Wayland, Massachusetts

**ACTIVITY AND USE LIMITATION**

**Drawing Title:**  
BUILDING 2F  
BUILDING ENVELOPE  
**Drawing Number:**  
EX-D  
**Scale:**  
1" = 100'