

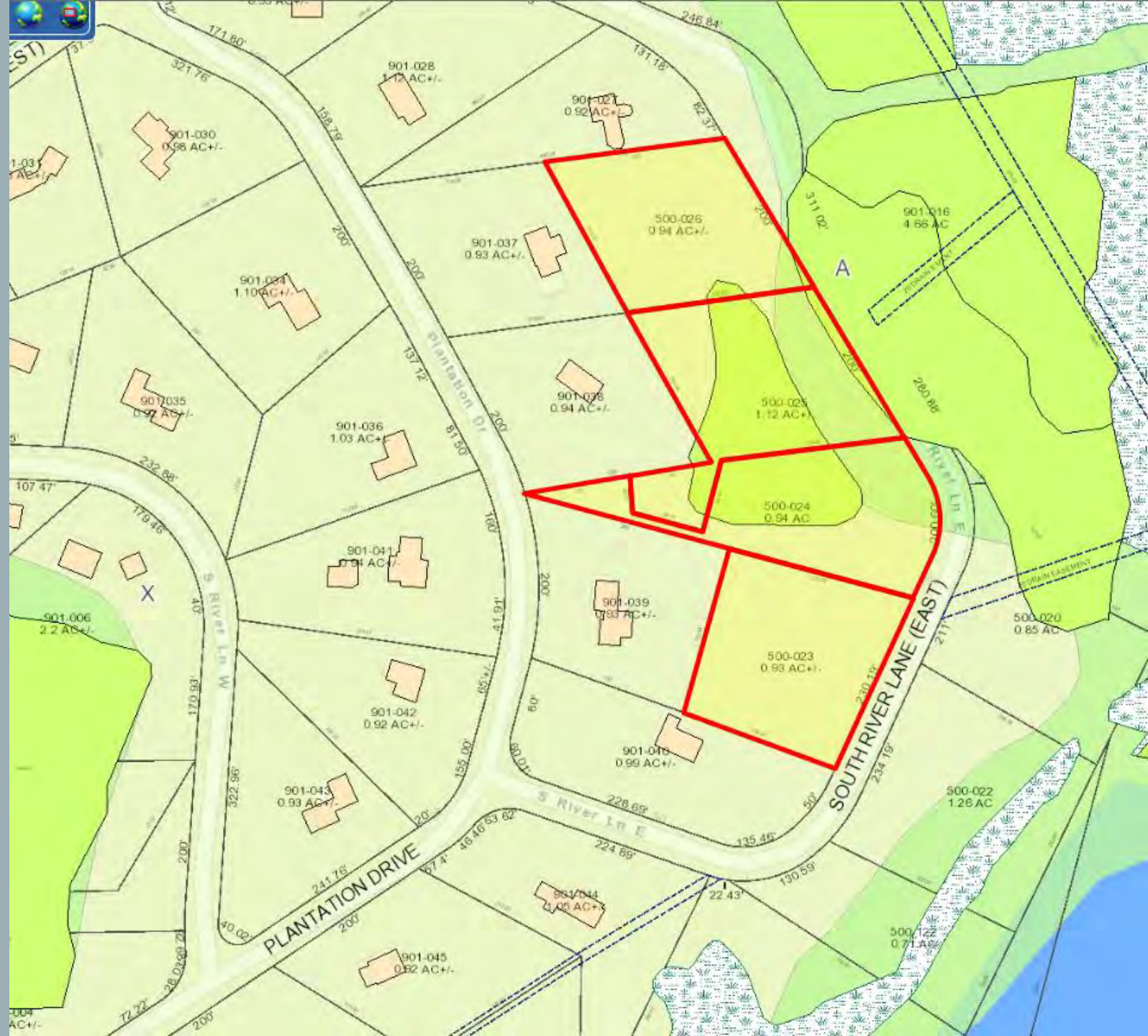


**CITIZENS PETITION  
ARTICLE 20**



# ARTICLE 20

## TRANSFER OF TOWN- OWNED LAND ACQUIRED BY TAX TITLE TO THE CONSERVATION COMMISSION – SOUTH RIVER LANE EAST



## ARTICLE 20

To see if the Town will vote to transfer the care, custody and control of the Town-owned parcels of land located off of South River Lane East and identified as Duxbury Assessor's Parcels 041-500-023, 041-500-024, 041-500-025, and 041-500-026, which were acquired by the Town by Judgment In Tax Lien Case recorded with the Plymouth County Registry of Deeds in Book 26766, Pages 176-178 and Book 26738, Page 223 , from the tax custodian for tax title purpose to the Conservation Commission under the provisions of M.G.L. c.40 §8C and to dedicate said parcels for conservation purposes in perpetuity under Article 97 of the Massachusetts Constitution, or take any action in relation thereto.

## EXPLANATION

Since the 1970s, there have been several attempts to develop these particular lots. All attempts have been denied by the town due to the lot characteristics:

- High groundwater
- Wetlands
- Existing topography of the area which makes surface drainage very challenging.

## DUXBURY BOH BLOCKS BUILDING PERMITS, CITING DRAINAGE AND SOIL CONDITIONS

BOH DISAPPROVED SEPTICS SYSTEMS ON THESE LOTS AT LEAST 3 SEPARATE TIMES:  
1985, 1996 and 2000.

In letter dated **February 7, 2000**, after review of one of the development proposals, the **Board of Health** rejected the plans for development of these lots for the following reasons:

- “The applicant has not demonstrated that the mounding of the septic systems on these lots would not adversely impact the drainage in the area/or in the area of the abutters.”
- “The applicant has not demonstrated that the soil conditions at the sites could support the proposed systems.”



## HISTORY OF DRAINAGE/WATER ISSUES

The majority of homeowners in the Plantation Drive/S. River Lane East and West subdivision have water and drainage issues.

Abutters have appeared before the BOH and Planning Board during various development attempts to express concern about exacerbating existing issues.







## POOR SOIL CONDITIONS AND PERC TESTS

Per BOH (1985), “Suitable perc tests have not been established...”

Tests revealed high ledge or “Refusal” found

## LITIGATION

The latest of these development attempts resulted in a protracted lawsuit between the owners of the lots and the Town of Duxbury because the Board of Health denied a building permit.

442 Mass, 114 (2004, *KANDACE J. KUKAS, trustee, v. BOARD OF HEALTH OF DUXBURY & another*. Supreme Judicial Court of Massachusetts. December 1, 2004.

After years of litigation, the Massachusetts Supreme Judicial Court upheld the decision to deny building on these lots.

These parcels were acquired in October 2003 by the Town in a Judgement in Tax Lien Case



## GIS STATUS

**FLOOD:**When the FEMA updated their flood maps recently, portions of these parcels are now located in a flood zone.

**WETLANDS:**The Town of Duxbury Assessors GIS maps also show that these lots are “wooded marsh” wetlands.

**ABUTTING AQUIFER PROTECTION OVERLAY DISTRICT:**These lots abut an aquifer protection overlay district.

# VOTE YES TO TRANSFER TOWN OWNED LAND TO CONSERVATION COMMISSION



These parcels are adjacent to Town  
Conservation Commission land that protects  
the South River and Garside Bogs.



Transfer approved by the Board of Selectmen,  
the Finance Committee and the  
Conservation Commission