

TOWN OF BARNSTABLE

BARNSTABLE
TOWN CLERK

NOTICE OF MEETINGS OF TOWN DEPARTMENTS AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009, amending MGL Chapter 30A

20 MAY 14 10:58

NAME OF PUBLIC BODY – COMMITTEE, BOARD OR COMMISSION:

MEETING AGENDA COMMUNITY PRESERVATION COMMITTEE

DATE OF MEETING: Monday, May 18, 2020

TIME: 5:30 P.M. – 7:30 P.M.

PLACE: In accordance with the Governor's Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More than 10 People issued on March 24, 2020, extended on March 31, 2020 and April 28, 2020, the May 18, 2020 public meeting of the Community Preservation Committee will be physically closed to the public to avoid group congregation.

Alternative public access to this meeting will be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed through the Channel 18 website at <https://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>
2. Real-time public comment can be addressed to the Community Preservation Committee utilizing the Zoom link or telephone number and access code for remote access below.
Link: <https://zoom.us/j/98390892726>
Telephone Number: 888-475-4499 Meeting ID: 98390892726
3. Applicants, their representatives, and individuals required or entitled to appear before the Community Preservation Committee may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Ellen.Swiniarski@town.barnstable.ma.us so that they may be displayed for remote public access viewing.

Please note that tonight's meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s. 20, the Chair must inquire whether anyone is taping this meeting and to please make their presence known

Call to Order:

Minutes:

- Approval of the Draft Community Preservation Committee Regular Meeting Minutes from April 27, 2020.

Letters of Intent:

None received.

Applications:

- An Application has been received from CapeBuilt Companies seeking \$300,000 in Community Preservation Community Housing funds in support of the creation of 2, two-bedroom deed-restricted affordable rental apartments at 100% AMI within the redevelopment/repurposing of an historically significant building that formally was home to the Hyannis Board of Trade located at 255 Main Street, Hyannis. Total project cost is \$2,286,000.
 - Letter of support from Ms. Elizabeth Wurfain, Hyannis Main Street BID.
- An Application has been received from the Town Manager's Office for Community Preservation Open Space/Recreation funds proposed to be phased over five years totaling \$1,449,000 for the assumption of the remaining debt associated with the Hyannis Golf Club, a 126.31 acre site. Existing Article 97 protections for active recreation will remain in place and would be expanded to include additional active recreation activities other than traditional golf and affordable and workforce housing in the event that it is decided to change from the current use as a golf course, and would require Community Preservation Committee approval.
- An Application has been received from Barnstable Land Trust seeking Community Preservation Open Space/Recreation funds in the amount of \$250,000 for the purchase of a 15.80 acre woodland parcel located at 830 Wakeby Road, Marstons Mills, Map 013, Parcel 003 with a purchase price of \$500,000. Acquisition of this parcel would expand on the 300+ acre Santuit Pond Preserve and conservation land owned by the Town of Sandwich. The parcel includes trails, important conservation habitat, wetlands and a vernal pool and satisfies many Town planning and CPC goals. The total budget for the project is \$525,680 with matching funds in the amount of \$275,680 to be raised through a MASS Land grant and private donations.

Public Comment:

Correspondence Received:

- Community Preservation Fund Schedule of Unreserved Fund Balances by Program Area prepared by Mark Milne, Director of Finance for the May 18, 2020 CPC meeting.

Project Updates:

- Orenda – Great Marsh Road Application received unanimous approval at the May 7, 2020 Town Council public hearing.
- Tales of Cape Cod Application is scheduled for a Town Council public hearing May 21, 2020
- A Town Council public hearing will be scheduled for BLT 28 Falcon Road, West Barnstable.
- Mid Point Apartments Community Housing Project is moving through grant funding process.
- Letter of Intent – YMCA – easement required -continued to June 15, 2020.
- Letter of Intent – St. John Paul II HS – user agreement required continued to June 15, 2020.
- Cape Cod Horticultural Society will return in late Spring 2020 with a Letter of Intent.
- Cape Playhouse Application anticipated in the Fall of 2020.
- St. Mary's Episcopal Church- Historic Restriction ready for endorsement/recording.
- A quote for the cost to prepare an historic building analysis report by a preservation architect for the Barnstable Historical Society Headquarters building is anticipated for review by CPC.
- Letter of Intent - Whelden Memorial Library, 2401 Meetinghouse Way, West Barnstable requires an historic building analysis report prepared by a preservation architect.

Member Discussion:

- Referral of Community Housing projects to the Affordable Housing/Growth & Development Trust Fund Board.
- Historic project review process/checklists
- Handbook Updates.
- Annual CPC Meeting tentative date June 15, 2020

Adjournment:

Next Regularly Scheduled CPC Meeting June 15, 2020

Please Note: The list of matters is those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Committee may go into executive session. The Committee may also act on items in an order other than they appear on this agenda. Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA

For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.



Town of Barnstable
COMMUNITY PRESERVATION COMMITTEE



www.town.barnstable.ma.us/CommunityPreservation
 Email: CommunityPreservationCommittee@town.barnstable.ma.us

Committee Members

Lindsey B. Counsell – Chair · Tom Lee – Vice Chair · Marilyn Fifield – Historical Commission · Terry Duenas – At Large · Katherine Garofoli – At Large
 Stephen Robbichaud – Planning Board · Tom Lee – Conservation Commission · James Tenaglia – Recreation Commission
 Deborah Converse – Planning Board · Farley Lewis – At Large · Britt Beedenbender – Town Council Liaison

Monday, April 27, 2020
Regular Public Hearing DRAFT Minutes
Remote Access Meeting Via Zoom Link: <https://zoom.us/j/97928810038>
5:30 PM

Lindsey Counsell – Chair	Present
Marilyn Fifield – Clerk	Present
Terry Duenas	Present
Tom Lee-Vice Chair	Present
Katherine Garofoli	Present
James Tenaglia	Present
Deborah Converse	Absent
Stephen Robichaud	Present
Farley Lewis	Present
Britt Beedenbender, Town Council Liaison	Present

Call to Order

With a quorum present, Chair Lindsey Counsell called the meeting to order at 5:30 pm and read: “Please note that tonight’s meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s.20, I must inquire whether anyone is taping this meeting and to please make their presence known.” No one present was recording the meeting.

The Chairman then introduced and the Committee welcomed two new members: Mr. Stephen Robichaud as the Planning Board representative and Ms. Farley Lewis as an At Large member.

Minutes

The motion of Tom Lee, seconded by Marilyn Fifield, to approve the February 24, 2020, meeting minutes as submitted passed unanimously by roll call vote of the members present, with Stephen Robichaud and Farley Lewis abstaining.

Letters of Intent

Letter of Intent from Barnstable Land Trust seeking \$250,000 in Community Preservation Open Space/Recreation funds for the purchase of a Conservation Restriction on a 15.74 acre woodland parcel located at 830 Wakeby Road, Marstons Mills, Map 013, Parcel 003, including conservation of 21 acres in the town of Sandwich by the same owner, adjacent to 350+ acres of conservation land across the road. Total purchase price of the parcel is \$500,000, with matching funds to be provided by a Mass. Land Grant and private Barnstable Land Trust funding.

Ms. Janet Milkman, Executive Director of Barnstable Land Trust, explained that this parcel is almost 16 acres of undeveloped woodland at the very western end of Barnstable on the Sandwich line and includes the town line trail. The parcel has been surveyed for an 11-lot subdivision, but it has special conservation value in abutting existing conservation land, and a Conservation Tax Credit is available to owners who sell below fair market value, qualifying this as a good candidate for a matching Massachusetts Land Grant of \$250,000. The parcel is accessed from the eastern end of Wakeby Road near parking for the Santuit Pond preserve and also from the Sandwich side, without parking. Whether the Town will own the property or purchase a Conservation Restriction will be determined before an Application is submitted.

Motion was made by Tom Lee and seconded by Farley Lewis for Barnstable Land Trust's Letter of Intent requesting \$250,000 in Open Space funds to move to the full Application stage. Motion passed with a unanimous roll call vote of the members present: 8 Aye, 0 No.

Letter of Intent from CapeBuilt Companies seeking \$300,000 in Community Preservation Community Housing funds to support the creation of 2, two-bedroom deed-restricted affordable rental apartments within the redevelopment/repurposing of an historically significant building that was once home of the Hyannis Board of Trade at 255 Main Street, Hyannis. Total project cost is \$2,286,000.

Mr. Robert Brennan of CapeBuilt Companies described his project as one that the Town has been encouraging, as it creates much-needed housing in an historic building that is being repurposed and preserved. He felt that, once complete, the redeveloped building will be a key piece of the economic and development plan for the East End. He said redeveloping an historic structure to include housing is nearly twice as expensive as new construction, but he said he is still proud that he undertook the project to ensure that two affordable deed-restricted 2-bedroom apartments, proposed to be indexed to Area Median Income, will be available on Main Street in Hyannis.

Public Comment:

Ms. Elizabeth Wurfbain of the Hyannis Business Improvement District called the project stellar for the downtown, adding year-round housing and a variety of uses.

Motion was made by Tom Lee and seconded by James Tenaglia for CapeBuilt Companies' Letter of Intent to move to the full Application stage. Motion passed with a unanimous roll call vote of the members present: 8 Aye, 0 No.

Letter of Intent from the Town Manager's Office for \$1,449,000 in Community Preservation Open Space/Recreation funds proposed to be phased over five years to assume the remaining debt of the 126.31-acre Hyannis Golf Club. Existing Article 97 protections for active recreation would remain in place and be expanded to include additional active recreation activities other than traditional golf and affordable and workforce housing, in the event that it is decided to change from the current use as a golf course, and would require Community Preservation Committee approval.

Mr. Mark Milne, Barnstable Director of Finance, outlined the Letter of Intent seeking

\$1,449,000 in Open Space/Recreation funds to be phased over five years. He explained that financing the original acquisition of the Hyannis Golf Club had been shared between the Community Preservation Fund and the Enterprise Fund. But, after 15 years of success, he said, the golf course now faces financial difficulty in finishing payment of the remaining loan. In exchange for the assumption of the remaining debt of \$1,449,000, he said Community Preservation Committee approval would be required for any future change in use from that of a golf course. In response to Community Preservation Committee members' questions, Mr. Milne explained that the existing restaurant on the site has a 3-year concession contract that would expire if a golf club no longer occupied the property, adding that income from the golf course is returned to operate the golf course. Committee members requested that an Application include a long-range plan for the future use of the land if golf is no longer viable. Mr. Milne felt that housing development would be unlikely due to Article 97 constraints, and he explained that the annual funding over five years would appear in the debt funding portion of the CPF budget. Prior to annual funding, this debt assumption would be reviewed each year and adjusted if the golf use rebounds. Mr. Milne clarified that CP Open Space/Recreation funds would buy further restrictions, basically tweaking the original acquisition.

Motion was made by Tom Lee and seconded by Katherine Garofoli for the Town of Barnstable's Letter of Intent to move to the full Application stage. Motion passed with a unanimous roll call vote of the members present: 8 Aye, 0 No.

Applications

Revised Application from Tales of Cape Cod, Inc., requesting \$125,000 in Community Preservation Historic Preservation funds for permanent restoration of the support structure of the 1st floor in the oldest part of the Olde Colonial Courthouse at 3046 Main Street in Barnstable Village. The total estimated project cost is \$175,000, with \$50,000 committed from Tales of Cape Cod, Inc., and \$50,000 granted from Massachusetts Preservation Projects Fund for emergency projects. With the State grant, the amount needed from the Barnstable Community Preservation fund is reduced to \$75,000 for this project.

Chairman Counsell acknowledged receipt of the letter from Tales of Cape Cod with attached Memorandum from Brown, Lindquist, Fenuccio & Raber Architect, Inc., outlining the list of priorities and the Letter of Award from the Mass. Historical Commission. Mr. Gene Guill, President of Tales of Cape Cod, summarized the background of the building, the changes in the funding request, and the options for restoration that were contemplated. He narrated a PowerPoint presentation that included new developments since the submission of their Letter of Intent, what is presently requested and the differences between the options. He indicated that one of the rejected options was a temporary solution that would necessitate discarding 70-80% of the work for eventual permanent restoration. He said he preferred the option for permanent restoration of the support structure of the 1st floor in the oldest part of the building would cost \$175,000, but he asked the Committee to consider granting the full \$125,000 originally sought in the Application to allow the additional \$50,000 to fund the repointing of the foundation and installation of trench drains that are also needed.

CPC Members agreed with the preferred permanent restoration option and inquired about funding for future phases of the restoration project, relaying the need to start a capital campaign to raise money. Mr. Guill said that the project is a multiphased project, with Phase III to include handicap accessibility. He said that Tales of Cape Cod plans to request CP historic preservation funds over the remaining phases, and he noted consideration of live streaming of programming, especially if the number of persons allowed in the building is limited. He offered a site visit for CPC members in the next few weeks. Some CPC members felt that Tales of Cape Cod should emphasize other fund-raising and not rely on Community Preservation funds going forward.

Motion was made by James Tenaglia and seconded by Marilyn Fifield to recommend appropriation to the Town Council through the Town Manager of \$75,000 in Community Preservation funds set aside for Historic Preservation for permanent restoration of the support structure of the 1st floor in the oldest part of the Olde Colonial Courthouse at 3046 Main Street in Barnstable Village. Motion passed with a unanimous roll call vote of the members present: 8 Aye, 0 No.

Chair Counsell then recused from consideration of the 28 Falcon Road, West Barnstable, CP Application

Application received from Barnstable Land Trust seeking \$245,760 in Community Preservation Open Space/Recreation funds for the acquisition of a 15.96-acre parcel and Conservation Restriction at 28 Falcon Road, West Barnstable, Map 195, Parcel 038. The Application meets many Town planning and CPC goals, including the preservation of ancient trails, and it leverages MA Tax Credit funding to create an advantageous cost-benefit value for the Town and Barnstable Land Trust. Total purchase price is \$345,760 with matching funds of \$85,000 from a Mass. Conservation Partner Grant and \$15,000 in private Barnstable Land Trust funding.

Vice Chairman Tom Lee, acting as Chairman, acknowledged receipt of two letters of support for this proposed acquisition from the Mass. Historical Commission; and Native Land Conservancy. Ms. Janet Milkman, Executive Director of Barnstable Land Trust, explained the details of the Application with the use of two maps displayed on the Town's Channel 18. She explained that this parcel has been Chapter 61 designated land for the last 40 years, and its acquisition would meet many Town planning and CPC goals besides leveraging MA Tax Credit funding to create an advantageous cost-benefit value. She noted that the location of the 15.96 acre parcel is in the northern part of town and is surrounded by 142 acres of existing conservation land owned by the Town and Barnstable Land Trust. Ms. Milkman indicated that this parcel includes a stretch of Cape Cod Pathways along its southern border, a link that is also an ancient trail used for thousands of years by colonists and indigenous peoples, explaining that this portion of the trail is the only unpaved section and offers opportunities for education on the trail's past use. She said there is an opportunity for provision of a small parking area, and she said that the Town of Barnstable has agreed to own the property in this partnership, with Barnstable Land Trust to hold the Conservation Restriction.

Motion was made by Terry Duenas and seconded by Katherine Garofoli to recommend appropriation to the Town Council through the Town Manager

of \$245,760 in Community Preservation funds set aside for Open Space/Recreation for acquisition of 28 Falcon Road in West Barnstable, Assessors Map 195, Parcel 038, for open space and passive recreation to be protected by a Conservation Restriction held by Barnstable Land Trust. Motion passed with a unanimous roll call vote of the members present: 7 Aye, 0 No.

Chair Counsell then returned to the meeting to consider modifications regarding the Harju property.

Modifications:

Modify 2014 recommendation Harju property, 71 Harju Road, Centerville, from open space/active recreation to open space/passive recreation. Town Council Order 2014-060 appropriated \$125,000 for acquisition of 1.05 acres and grant of Conservation Restriction.

Chair Counsell explained that the purpose of the modification of the original 2014 vote is to release the use of active recreation for passive recreation on the property, with the Conservation Restriction conveyed to Barnstable Land Trust.

Motion was made by Tom Lee and seconded by Katherine Garofoli to accept the change in use of 71 Harju Road, Centerville, from open space/active recreation to open space/passive recreation. Motion passed with a unanimous roll call vote of the members present: 8 Aye, 0 No.

Public Comment: None.

Chair Counsell acknowledged the following correspondence received:

- Community Preservation Fund Schedule of Unreserved Fund Balances by Program Area As of February 26, 2020, prepared by Mark Milne, Director of Finance.
- Memorandum dated March 9, 2020, from the YMCA in response to questions posed at the February 24, 2020, CPC meeting.
- Letter from Town Council Office dated April 17, 2020, regarding the appointment of Mr Stephen Robichaud as Planning Board representative on the Community Preservation Committee.
- Letter from Town Council Office dated April 17, 2020, regarding the appointment of Ms. Farley Lewis as an At-Large member of the Community Preservation Committee.

Chair Counsell reviewed the following Project Updates with CPC Members:

- Mid Point Apartments Community Housing project was unanimously approved for appropriation at the April 2, 2020, Town Council Public Hearing.
- Cape Cod Horticultural Society will return in late Spring 2020 with a Letter of

Intent.

- Orenda draft CR plan received approval of LAPC and Conservation Commission and is scheduled for a Public Hearing at the Town Council on May 7, 2020.
- Letter of Intent from YMCA has been continued to the May 18, 2020, CPC agenda.
- Letter of Intent from St John Paul II HS has been continued to the May 18, 2020, CPC agenda.
- At the request of the applicant, the Cape Playhouse Application has been postponed to a date in the Fall of 2020.
- St. Mary's Episcopal Church Historic Preservation Restriction has been approved by the State and is ready for endorsement/recording.
- It was determined at the February 24, 2020, CPC meeting that a quote for the cost to prepare an historic building analysis report by a preservation architect for the Barnstable Historical Society Headquarters building is anticipated for review by CPC, and the Whelden Memorial Library, 2401 Meetinghouse Way, West Barnstable, requires an historic building analysis report prepared by a preservation architect.

Member Discussion:

Chair Counsell asked members to review draft materials for finalization

- Historic project review process.
- Handbook Updates.
- Tentative Annual CPC Meeting Date - June 15, 2020

Adjournment:

Motion was made by Terry Duenas and seconded by James Tenaglia to adjourn. Motion passed with a unanimous roll call vote of the members present: 8 Aye, 0 No, and the meeting adjourned at 6:42 p.m.

Next Regularly Scheduled CPC Meeting – May 18, 2020

List of documents/exhibits used by the Committee at the meeting:

- Exhibit 1 – Draft CPC Meeting Minutes from February 24, 2020.
- Exhibit 2 – Letter of Intent – Barnstable Land Trust – 830 Wakeby Road, Marstons Mills.
- Exhibit 3 – Letter of Intent – CapeBuilt Companies – 255 Main Street, Hyannis
- Exhibit 4 – Letter of Intent – Town of Barnstable – acquisition of remaining debt associated with Hyannis Golf Club.
- Exhibit 5 – E-Mail –Attorney Houghton regarding Hyannis Golf Club Letter of Intent
- Exhibit 6 – Letter from Tales of Cape Cod dated March 9, 2020 and attached Memorandum from Brown Lindquist Fenuccio & Raber Architects dated March 6, 2020.
- Exhibit 7 – Letter of Award to Tales of Cape Cod from Mass Historical Commission.
- Exhibit 8 – Power Point Presentation- Tales of Cape Cod “New Developments”
- Exhibit 9 – Application and supporting documents– Barnstable Land Trust – Acquisition of 28 Falcon Rd. West Barnstable.
- Exhibit 10 – Letter of Support for 28 Falcon Rd. Application from Mass Historical Comm.
- Exhibit 11 – Letter of Support for 28 Falcon Road Application from Native Land Conservancy.

Exhibit 12 – GIS map of area of 71 Harju Road and photo of existing train to the lot.
Exhibit 13 – Community Preservation Fund Schedule of Balances as of February 26, 2020 prepared by Mark Milne, Director of Finance.

Exhibit 14 – Draft CP Historic Preservation Application Checklists.

Exhibit 15 – Letter from Town Council Office dated April 17, 2020 regarding the appointment of Farley Lewis as an At Large member of the Community Preservation Committee.

Exhibit 16 – Letter from Town Council Office dated April 17, 2020 regarding the appointment of Stephen Robichaud as the Planning Board representative member of the Community Preservation Committee.

Respectfully submitted,

Ellen M. Swiniarski

Community Preservation Committee Assistant

and edited by CPC Clerk Marilyn Fifield

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Committee may go into executive session. The Committee may also act on items in an order other than they appear on this agenda.

*** Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA**



April 27, 2020

Lindsey B. Counsell
Barnstable Community Preservation Committee
367 Main Street Hyannis, MA 02601

RE: 255 Main Street, Hyannis

Dear Chairman Counsell and Members of the Community Preservation Committee:

On behalf of The Hyannis Main Street BID, I am writing to support the application of the CapeBuilt Companies to receive CPC funds in support of the creation of affordable housing at 255 Main Street – a project that we have been envisioning for years. At the center of the BID district it has been a goal to add market-rate year-round housing in order to stabilize the housing market in the downtown, especially in the east end.

The CapeBuilt Companies and Rob Brennan have shown the vision and the faith in our community to put years of work and resources into creating a list of projects that will be a game changer for the downtown. CapeBuilt's work to create housing in a historic district will help bring back a neighborhood that had fallen into deep disrepair and had become a place with the highest crime rate in Barnstable County.

Research finds that retail follows residential, and a resilient community has a mixture of all types of housing and commercial uses. Market rate housing in downtown Hyannis is the best way to revitalize the downtown district according to Michael Berne, recent downtown tenant consultant jointly retained by the Barnstable Planning and Development Department and the Main Street BID.

As a prelude project to Sea Captain's Row, CapeBuilt was especially cognizant of the historic value of 255 Main Street – the original home of the Hyannis Board of Trade – and has already invested extraordinary resources into its redevelopment. In this single project, Barnstable benefits doubly by gaining both the preservation of a historically significant building in the history of Hyannis and the creation of much-needed housing. It is undoubtedly in Barnstable's interest to support and encourage such projects

through CPC funding – particularly, as we know it is far more expensive to rehabilitate a building than to tear down and start over.

I urge the Committee to invite a full application for funding to support the development of housing at 255 Main Street indexed to 100% of AMI, to act favorably on the request of the CapeBuilt Companies, and to set a precedent that will be important for the future of Main Street. Housing is needed to support Main Street and downtown Hyannis. Projects like 255 Main Street are the missing puzzle piece.

Thank you,

Elizabeth Wurfain

Hyannis Main Street BID

**CAPEBUILT COMPANIES INC.
255 MAIN STREET, HYANNIS
CPC APPLICATION
MEETING MAY 18, 2020**

**DUE TO FILE SIZE
PLEASE SEE SEPARATE EMAIL
FOR THIS APPLICATION**

CPC APPLICATION (Page 1)

Appropriated CPA funds require one or more deed restrictions (conservation / historic preservation / housing). Sample restrictions are available at the Official Website of the Town of Barnstable www.town.barnstable.ma.us. If the restriction is prepared by the applicant, the first draft of the restriction should be provided to the CPC Assistant. If the applicant is not preparing the restriction, a consultant will contact the applicant to assist in the drafting of the appropriate restriction after funds are appropriated. The Town of Barnstable Legal Department and Legal Consultant shall review and approve the restriction prior to the final commitment of the CPA funds to the project.

Submission Date: May 7, 2020

Project Title: Assumption of the Remaining Debt Service on 2005 Open Space Acquisition Located at 1800 Iyanough Rd – Hyannis Golf Course

Project Map/Parcel Number: 254016

Estimated Start Date: August 2020

Estimated Completion Date: February 2025

Purpose (please circle all that apply):

Open Space

Community Housing

Historic

Recreation

Town Affiliation**

Public

Private

Non-Profit

Partnership (Describe below #3)

****Please note: All Town CPC Applications must be approved by the Town Manager prior to submission.**

Applicant Contact:

Name: Mark S. Ells, Town Manager

Organization (if applicable): Town of Barnstable

Address: 367 Main St. Hyannis, MA 02601

Mailing Address: Same

Daytime Phone #: 508.328.7124

E-mail Address: mark.ells@town.barnstable.ma.us

Primary Contact (if different from applicant contact):

Name:

Address:

Mailing Address:

Daytime Phone #:

E-mail Address:

CPC APPLICATION (page 2)

Appropriated CPA funds require one or more deed restrictions (conservation / historic preservation / housing). Sample restrictions are available at the Official Website of the Town of Barnstable www.town.barnstable.ma.us. If the restriction is prepared by the applicant, the first draft of the restriction should be provided to the CPC Assistant. If the applicant is not preparing the restriction, a consultant will contact the applicant to assist in the drafting of the appropriate restriction after funds are appropriated. The Town of Barnstable Legal Department and Legal Consultant shall review and approve the restriction prior to the final commitment of the CPA funds to the project.

Budget Summary:

Total budget for project: **\$1,449,000**

CPA funding request: **\$1,449,000**

Matching funds (committed/under consideration):

Please address the following questions:

1. Project summary (description and goals): The Town of Barnstable acquired this 126+- acre parcel with the authorization granted under Town Council order 2004-107 on July 15, 2004 in order to preserve it as open space and to protect the town's water supply. The acquisition was supported by the Landbank Committee which preceded the Community Preservation Committee (CPC). The acquisition price was \$9,950,000 and the Town was authorized to borrow the funds for the acquisition. The Landbank Fund share of the acquisition was \$5,000,000 and the Golf Enterprise Fund share was \$4,950,000 (50.2 / 49.8 cost share). The Town issued a 20 year General Obligation Bond in February 2005 to fund this acquisition.

At the time of acquisition there was a golf course operating on the property. Projections were prepared by the Recreation Department that indicated the continuation of the golf course operations could support the payback of the remaining \$4,950,000 from the user fees generated. For the past 15 years the golf operations have been successful in generating the necessary revenue to repay the non-landbank (now the Community Preservation Fund) portion of the loan to acquire the property. However, it has become increasingly difficult over the past few years as the golf industry has changed. The level of play is down and fees have increased. Fees are set to levels that attempt to generate sufficient revenue to cover the operating costs, including debt service. At the same time, the fee structure cannot be set to levels that will discourage use of the facility and drive customers away.

There are 5 years remaining on the loan payment for this acquisition. This request seeks the Community Preservation Fund's assistance by asking it to pay the remaining five years on the loan (principal and interest) that are currently scheduled to be paid back by the Enterprise Fund operation. The principal share is \$1,290,000 and the interest is \$159,000. Adding the principal share on the remaining loan to the original Landbank share of \$5 million would result in an adjusted cost share of \$6,290,000 and \$3,660,000 (63% / 37%) between the Community Preservation Fund and Golf Enterprise Fund for the acquisition.

If approved, the annual appropriation for the repayment of the Community Preservation Fund's debt service will be adjusted to reflect the payback of this loan by adding to the other loans it is currently repaying. As this is done on an annual basis, it will offer an opportunity to review the financial condition of the golf operation, and in the event that there is a significant improvement to the operations, an evaluation can be made to consider moving it back to the enterprise fund operating budget. This determination would be made at the end of each calendar year so that the subsequent fiscal year budgets can be adjusted accordingly.

In exchange for the assumption of the remaining debt it is proposed that the CPC would place further conditions on the use of the 126 acre site and that any future use other than traditional golf be approved by the CPC.

The current use of the property as a regulation golf course will continue as is. Existing Article 97 protections for active recreation will remain in place and will be further be expanded to include additional active recreation activities other than traditional golf and affordable housing in the event that it is decided to change from the current use.

The day to day operation of the golf course is currently under the new environmentally sensitive land care practices as adopted by the Town Manager and that program will continue as the standard for water supply protection for the nearby drinking water well sites.

As part of this new agreement a review of existing information on the site and its actual estimated potential for future water supply production would be established. This report would then be used as a baseline for future operational decisions on this property and as a guide for decisions going forward should a new use be proposed.

Protection of the site for water drinking quality protection as informed by the above report would become a top priority for this property. All choices for the management of the property, redevelopment, and capital improvement will favor drinking water protection first and foremost.

The intended future use of the property remains for active recreation purposes, compatible with drinking water supply protection. Site operations may be run by the Town or others under Town supervision subject to an appropriate use agreement.

If the existing golf course operations cease to exist the intended future use of the property will also include exploring opportunities for increasing the town's affordable housing inventory in appropriate locations.

The Community Preservation Committee will approve any change of use, improvements and/or redevelopment of the site, particularly if the current use as a traditional golf course is being discontinued. In the event that another use for the land might be proposed, the term active recreation is demonstrated by the following types of uses:

- Golf related activities such as an expanded driving range or a pitch and putt course
- Adventure courses, mountain bike tracks, cross country skiing
- Paddleball, handball and basketball courts,
- Bocci, shuffleboard and lawn bowling
- Playgrounds, disc golf and community gardens

This list is not intended to be final, other uses may be proposed. For additional guidance the CPC would be consulted and resolution of any conflicts that arise shall be at the discretion of the CPC.

2. How does this project help preserve Barnstable's character? This project will help the community preserve an affordable recreational opportunity for its citizens and at the same time continue to preserve the open space and protect our drinking water resources. The town does not have any plans to change the use of this property from its current use. Absent this requested assistance from the CPC the town will need to provide General Fund tax support to continue the operations. If General fund tax support is used some other municipal service area will be impacted. This can be avoided with CPC support.

3. Partnership(s) Description: The town (golf course) has contributed \$3,660,000 towards this acquisition to date. In addition, the town seeks to provide additional restrictions on this property by making any change to its future use, in the event the golf operations are no longer viable, subject to approval by the Community Preservation Committee. This could include multiple alternative forms of active recreation

4. Provide a detailed project timeline: Assuming the remaining debt service on the land acquisition would begin with the FY 2021 CPC debt service budget.

5. How does this project meet the General Criteria and Category Specific Criteria for CPC projects?

The town legal staff has opined that this would be eligible for CPC as its intended for acquisition of open space and recreation land (44B/5(b)(2) as an extension of the original acquisition which was through the predecessor Land Bank Act and carried over to the Community Preservation Act (CPA) conversion in 2005 ("financial obligation under which the property was originally acquired"): affordable housing was not a Land Bank purpose but affordable housing is a CPA purpose within parameters stated in the CPA. Since this is an extension of the original acquisition and debt is not an operating expense this is not prohibited by Chapter 44B/6 of the CPA.

6. Provide a detailed budget, including the following information, as applicable: (Fiscal Year, Total Cost, CPC Funds Requested, Other Sources of Funding sought and received, and cost estimates/quotes received):

Funds are requested from the amount set aside for Open Space/Recreation within the Community Preservation Fund to assume the remaining debt service payments charged to the Golf Enterprise Fund for the acquisition of 126 +- acres of open space in 2005 that was a shared acquisition between the Landbank Fund and Enterprise Fund. The remaining debt service payments are as follows:

FY 2021 debt service - \$ 289,600
FY 2022 debt service - \$ 289,080
FY 2023 debt service - \$ 288,200
FY 2024 debt service - \$ 291,960
FY 2025 debt service - \$ 290,160
Total over 5 years - \$1,449,000

7. Assessors office identification map and map and parcel number: 254016



Signature of Applicant

5.13.2020

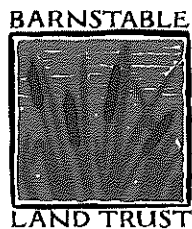
Date

Signature of Applicant Partner

Date

Signature of Town Manager (Town Affiliated Projects)

Date



May 12, 2020

Lindsey Counsell, Chairman
Community Preservation Committee
Town of Barnstable
367 Main Street
Hyannis, MA 02601

Re: **830 Wakeby Road Conservation Project**
Map 013 Parcel 003

Dear Lindsey:

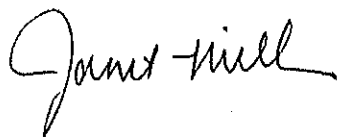
This application follows up on the Letter of Intent, approved at the April 27th Community Preservation Committee meeting.

On behalf of the Barnstable Land Trust (BLT), I am submitting the enclosed Community Preservation Act application for funding of \$250,000 for the purchase of the 15.80-acre property located at 830 Wakeby Road in Marstons Mills. This key parcel of land would expand on the 300+ acre Santuit Pond Preserve and conservation land owned by the Town of Sandwich. The parcel includes trails, important conservation habitat, wetlands and a vernal pool.

As you can see from the application enclosed, this land acquisition would satisfy many Town planning and CPC goals related to scenic and natural resource protection as well as passive recreation. The project leverages a MA LAND grant to create an advantageous cost-benefit value for the Town and BLT.

If you have any questions regarding this application, or request additional information, please contact or me at 508-771-2585 x 101.

Sincerely,



Janet Milkman
Executive Director

FW: CPC 830 Wakeby Road - Letter of Intent- Endorsement

Tom Lee [tlee@horsleywitten.com]

Sent: Monday, April 27, 2020 4:36 PM**To:** Swiniarski, Ellen; Lindsey Counsell - Chair [lindsey.counsell@gmail.com]

This is for your information on 830 Wakeby Road.

E.P. (Tom) Lee, P.E. | Associate Principal, Principal Engineer

Horsley Witten Group, Inc.

90 Route 6A, Unit #1 | Sandwich, MA 02563

Office: 508-833-6600**From:** Anthony, David <David.Anthony@town.barnstable.ma.us>**Sent:** Monday, April 27, 2020 4:33 PM**To:** Tom Lee <tlee@horsleywitten.com>**Cc:** Janet Milkman (janet@blt.org) <janet@blt.org>; Clyburn, Andy <Michael.Clyburn@town.barnstable.ma.us>**Subject:** CPC 830 Wakeby Road - Letter of Intent- Endorsement

Mr. Lee.

The 830 Wakeby Road Property that is before tonight's CPC meeting is another partnered project between the Town of Barnstable and the Barnstable Land Trust to acquire a piece of land for preservation of open space and conservation purposes. It is a property that fits in the overall plans and goals of the Town in its acquisition and management of public property.

Like many other projects involving the Town and BLT to secure open space and conservation of land in the Town, this property is one that we have been working on for quite some time with BLT. We are pleased to hear it is moving forward through the process to be considered by CPC for assistance in funding and endorse the project.

Thank you for your consideration.

David W. Anthony
Director of Property and Risk Management
Town of Barnstable
230 South Street
Hyannis, MA 02601

5/14/2020

FW: CPC 830 Wakeby Road - Letter of Intent- Endorsement

Ph: (508) 862-4652

Fx: (508) 862-4779

CAUTION: This email originated from outside of the Town of Barnstable! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

CPC APPLICATION (PAGE 1)

Appropriated CPA funds require one or more deed restrictions (conservation / historic preservation / housing). Sample restrictions are available at the Official Website of the Town of Barnstable www.town.barnstable.ma.us. If the restriction is prepared by the applicant, the first draft of the restriction should be provided to the CPC Assistant. If the applicant is not preparing the restriction, a consultant will contact the applicant to assist in the drafting of the appropriate restriction after funds are appropriated. The Town of Barnstable Legal Department and Legal Consultant shall review and approve the restriction prior to the final commitment of the CPA funds to the project.

Submission Date: May 13, 2020

Project Title: 830 Wakeby Road Conservation Project

Project Map/Parcel Number: 013/003

Estimated Start Date: 7/1/19

Estimated Completion Date: 1/30/21

Purpose (please circle all that apply):

Open Space

Community Housing

Historic

Recreation

Town Affiliation**

Public

Private

Non-Profit

Partnership (Describe below #3)

****Please note: All Town CPC Applications must be approved by the Town Manager prior to submission.**

Applicant Contact:

Name: Janet Milkman

Organization (if applicable): Barnstable Land Trust

Address: 1540 Main Street West Barnstable MA 02668

Mailing Address: same

Daytime Phone #: 508 771 2585 x 101

E-mail Address: janet@blt.org

Primary Contact (if different from applicant contact):

Name:

Address:

Mailing Address:

Daytime Phone #:

E-mail Address:

CPC APPLICATION (page 2)

Appropriated CPA funds require one or more deed restrictions (conservation / historic preservation / housing). Sample restrictions are available at the Official Website of the Town of Barnstable www.town.barnstable.ma.us. If the restriction is prepared by the applicant, the first draft of the restriction should be provided to the CPC Assistant. If the applicant is not preparing the restriction, a consultant will contact the applicant to assist in the drafting of the appropriate restriction after funds are appropriated. The Town of Barnstable Legal Department and Legal Consultant shall review and approve the restriction prior to the final commitment of the CPA funds to the project.

Budget Summary:

Total budget for project: **\$525,680**

CPA funding request: **\$250,000**

Matching funds (committed/under consideration): **\$275,680 to be raised through MASS Land grant and private donations**

Please address the following questions:

Barnstable Land Trust is working to purchase 15.74 acres at 830 Wakeby Road in Marstons Mills as part of a project that includes conservation of an additional adjacent 21 acres in the Town of Sandwich owned by the same owner. BLT believes that the property is important because of its location across the road from the Santuit Pond Preserve and abutting town conservation land to the north on the Sandwich side of the line, adding to a major area of contiguous habitat.

2. How does this project help preserve Barnstable's character?

Conservation of this property will help to maintain the natural and rural character of Marstons Mills. The property includes walking trails including the historic "Five Mile Line" runs through the property, dividing towns of Sandwich and Barnstable and extending from Sandy Neck to Wakeby Road.

3. Partnership(s) Description: Barnstable Land Trust has met with the Assistant Town Manager and staff; there is support for the protection of this parcel. Yet to be determined is whether the Town or BLT will own the land and who will hold the conservation restriction. The Town appears interested in owning the land. BLT is willing to own the land or hold the CR. The Purchase and Sale agreement allows for BLT to assign it to the Town.

4. Provide a detailed project timeline: The project is dependent on timing of Town decision-making at the CPC, and Council, and approval of a MA LAND Grant, whose decisions come in the fall. The intent is to close by the early 2021.

5. How does this project meet the General Criteria and Category Specific Criteria for CPC projects?

General Criteria

- *Consistency with the Local Comprehensive Plan and other planning documents that have received wide scrutiny and input and have been adopted by the town;* Consistent with Goal 1 of Open Space and Recreation Plan to protect and maintain a maximum amount of open space to enhance environmental protection, recreational opportunities and community character. The property lies fully within Zone II contribution to public water supply.
- *Preservation of the essential character of the town;* Property purchase will preserve land adjacent to 300+ acres of conservation land, including many walking trails;
- *Save resources that would otherwise be threatened and/or serve a currently under-served population;* conservation would protect land threatened by development;
- *Demonstrate practicality and feasibility, and demonstrate that they can be implemented expeditiously and within budget;* based on decades of expertise and experience and flexibility at BLT, the project will move forward with town or BLT ownership;
- *Produce an advantageous cost/benefit value;* MA LAND Grant and BLT fundraising through private foundations will provide up to \$275,000 for the project, making the property relatively inexpensive for purchase;

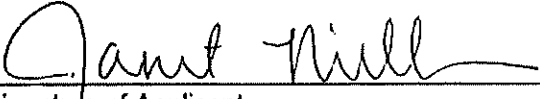
- Leverage additional public and/or private funds; applications that identify commitment from other funding sources will receive a higher priority; see above, MA Conservation Partnership Grant and private funding;
- Serves more than one CPA purpose: property provides conservation, passive recreation and historic preservation opportunities.

Open Space Criteria

- Protecting land bordering on wetlands in order to assist in minimizing or eliminating eutrophication of habitats: land includes locally prime wetland soils, freshwater wetlands, and prime forestland as designated by the Commonwealth of Massachusetts; includes former cranberry bogs
- Permanently protect important wildlife habitat, including areas that are of local significance for biodiversity; property is 95% in Statewide Land Conservation area and 100% BioMap 2 Critical Natural Landscape for rare and native species and their ecosystems;
- Contain a variety of habitats, with diversity of geologic features and types of vegetation: includes both wetland and upland, with varied topography
- Preserve habitat for threatened or endangered species of wildlife: contains State Wildlife Action Plan species of greatest conservation need in pine-oak upland forest, 95% in Prime Forest Land, the habitats of fox, coyote, deer, eastern box turtle, migratory warblers, and bobwhites.
- Preserve scenic, agricultural, historic, archeological or wooded character; protects scenic character:
- Provide opportunities for passive recreation and environmental education; the property has many trails and connects with Santuit Pond Preserve;
- Protect or enhance wildlife corridors, promote connectivity of habitat or prevent fragmentation of habitats; connects 21 acres of undeveloped land in Sandwich and across the street from 300 +acres of conservation land in the Santuit Pond Preserve
- Provide connections with existing trails; see above
- Preserve scenic vistas and qualities of lands bordering a scenic road; preserves scenic woodland along Wakeby Road
- Provide public access; provides access to trails on both sides of Wakeby Road
- Preserve important surface water bodies, including wetlands, vernal pools or riparian zones; Vernal pools have been identified on the property and the adjacent parcel in Sandwich

6. Provide a detailed budget, including the following information, as applicable: (Fiscal Year, Total Cost, CPC Funds Requested, Other Sources of Funding sought and received, and cost estimates/quotes received):

7. Assessors office identification map and map and parcel number: 013/003



 Signature of Applicant

5/12/20

 Date

 Signature of Applicant Partner

 Date

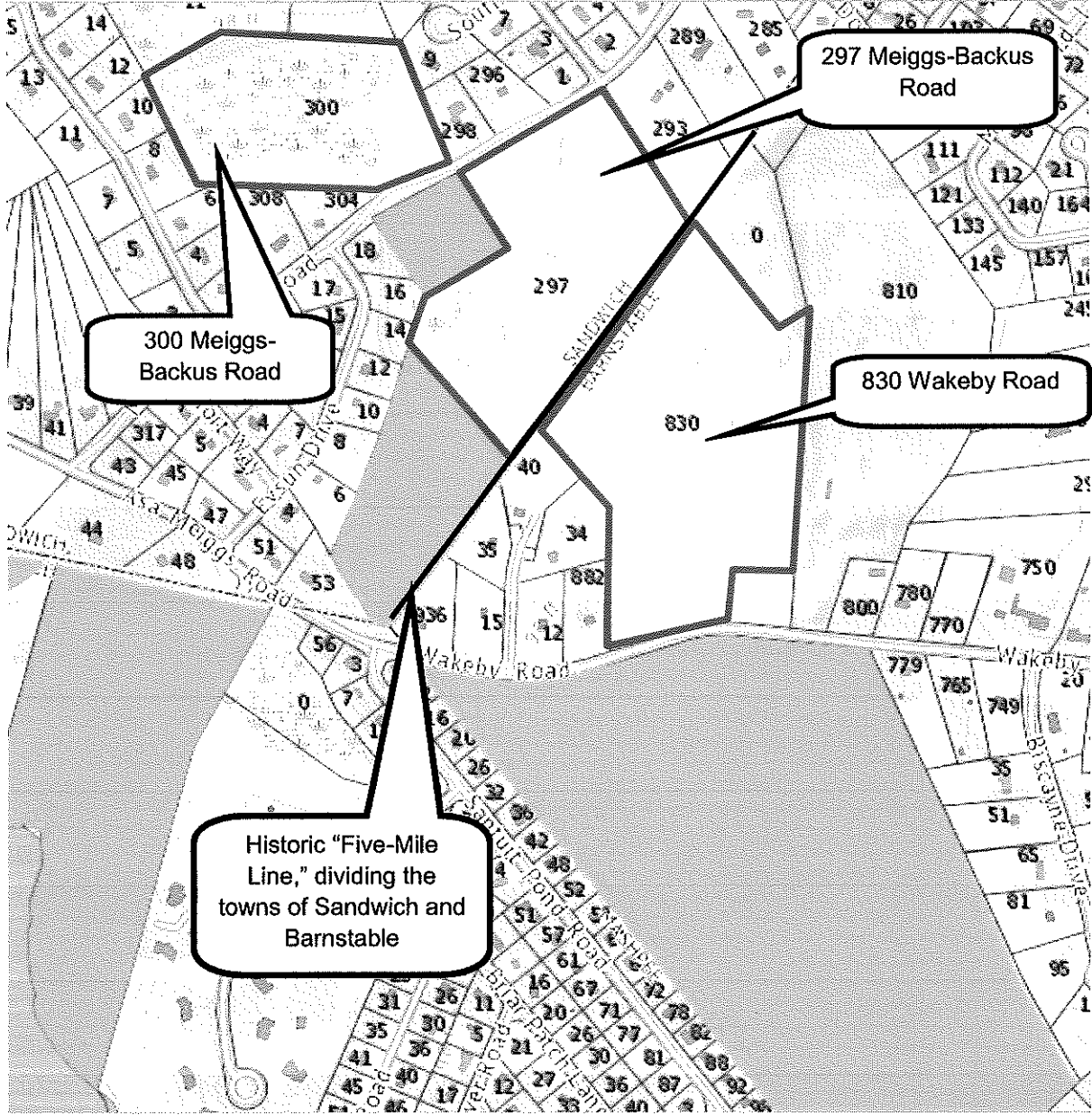
 Signature of Town Manager (Town Affiliated Projects)

 Date




830 Wakeby Road - Baker/Laflam

Project Cost	Estimate	
Land Purchase	\$ 500,000	plus \$75,000 CLTC
Appraisal	\$ 600	
Consultants		
Tax credit, CR and baseline documentation	\$ 2,500	Compact
Land Survey (Downscape Engineering)	\$ 1,500	Seller paid another \$1500
Legal & Closing Costs	\$ 2,500	
Registry fees - State and County Excise tax	\$ -	Seller pays excise tax; Town is exempt
Record plan, deed and Conservation Restriction	\$ 365	
Title Work	\$ 750	
Title Insurance	\$ 1,200	
	\$ -	
Property Tax (1/2 of FY 2021 estimate)	\$ 1,765	
BLT Land Management Fund	\$ 2,500	
Contingency	\$ 2,000	
Administrative and other costs	\$ 10,000	
Total Project Expense and Set Aside	\$ 525,680	
Revenue Source Goals	original projection	
BLT Share	\$ 25,680	\$20,000 plus project costs
Mass Tax Credit to Seller	-	\$ 75,000 approved for 2021
Town CPA Funding - For the purchase of the CR	\$ 250,000	gross cost to Town \$480,000 before LAND grant to Town
MA LAND Grant	\$ 250,000	52% of Town purchase price for CR
Total Revenue	\$ 525,680	

LAFLAM PROPERTY
 BARNSTABLE AND SANDWICH, MA
 CONSERVATION LAND TAX CREDIT (CLTC) APPLICATION
 SURROUNDING OPEN SPACE MAP



Map prepared April 2019
 Data provided by MassGIS

Legend	
	Approx. 37.29-Acre CR Area (3 Parcels)
	Parcel Boundaries
	Town-Owned Open Space

of land that lies against William Newland's house shall be appropriated for a burial place for the Town." Newland's house was described in the survey of properties as west of Grove Street so the word "against" here means "opposite." There was an absence on Cape Cod of slate, marble, or other sedimentary stone that could be split flat and carved for a grave marker. These had to be imported from Boston or elsewhere at great expense. Many early burials were marked by horizontal boards of hard wood such as locust supported on posts, but these deteriorated. The earliest markers in Old Town Cemetery are: Thomas Clark, 1683; Thomas Burgess, 1685; Dorothy Burgess, 1687; Ezra Perry, 1689; John Prince, 1689. The Senior Burgesses are said to have imported their slate burial markers from England, but these broke up and were replaced in 1917 by new slates. Ezra Perry was their son-in-law, whose wife Elizabeth (Burgess) was buried here in 1717. Young Prince was the son of Samuel Prince, who came to Sandwich in 1680.

Town Boundaries

The Town's boundaries with Plymouth, Barnstable and Falmouth have remained remarkably constant since these towns were first settled. The Plymouth line began at Peaked Cliff and ran southwest to a mark on a large rock just west of the outflow of Herring River from Great Herring Pond, thus placing the entire Herring River within Sandwich bounds. From there the line ran across country more westerly to Red River and thence south with the river to Buttermilk Bay and Cohasset Narrows. The Sacconesser border began at a place near the Buzzards Bay shore called Hope's Spring, thence easterly to a three-way town marker on the Sandwich road west of Ashmet Pond, with the Indians' lands to the east of the road. The Barnstable line began at a large rock near Ralph Jones' house on present High Street and Howland Lane. From the rock, the line ran northeast through Scorton and Great Marshes, leaving the neck of Fuller's Point in Barnstable and running to a stake at the seaside. From the rock, the line ran southwest five miles to a marked tree just off present Asa Meiggs' Road which was a three-way marker with the Indians' lands.

The borders between Mashpee and each of its neighboring towns form a separate subject which will be discussed later in chapters 12 and 23.

Herring, Whales, Blackbirds, Wolves

The annual flow of herring, especially up the Manomet/Herring River

herring and Richard Bourne with a land-holding further up the annual allowance of 12,000 herring. The Indians had taken the weeds of brush. The whites found it necessary to control the taking a fair distribution to both whites and Indians. Each white family a barrel of herring and each Indian family two barrels.

Whales, blackfish and other oil-bearing mammals occasionally ashore and were eagerly watched for. The blubber was boiled cauldrons on the shore and the oil put up in casks. The finder and w got shares and the rest was saved to pay town expenses, such as powder or payment to the minister.

On the opposite score of nature's bounty, men were required blackbirds, probably grackles, at twelve birds per year, or one crow; two blackbirds. Bounties were set on wolves because of sheep grazing; Wolves remained here until well into the nineteenth century.

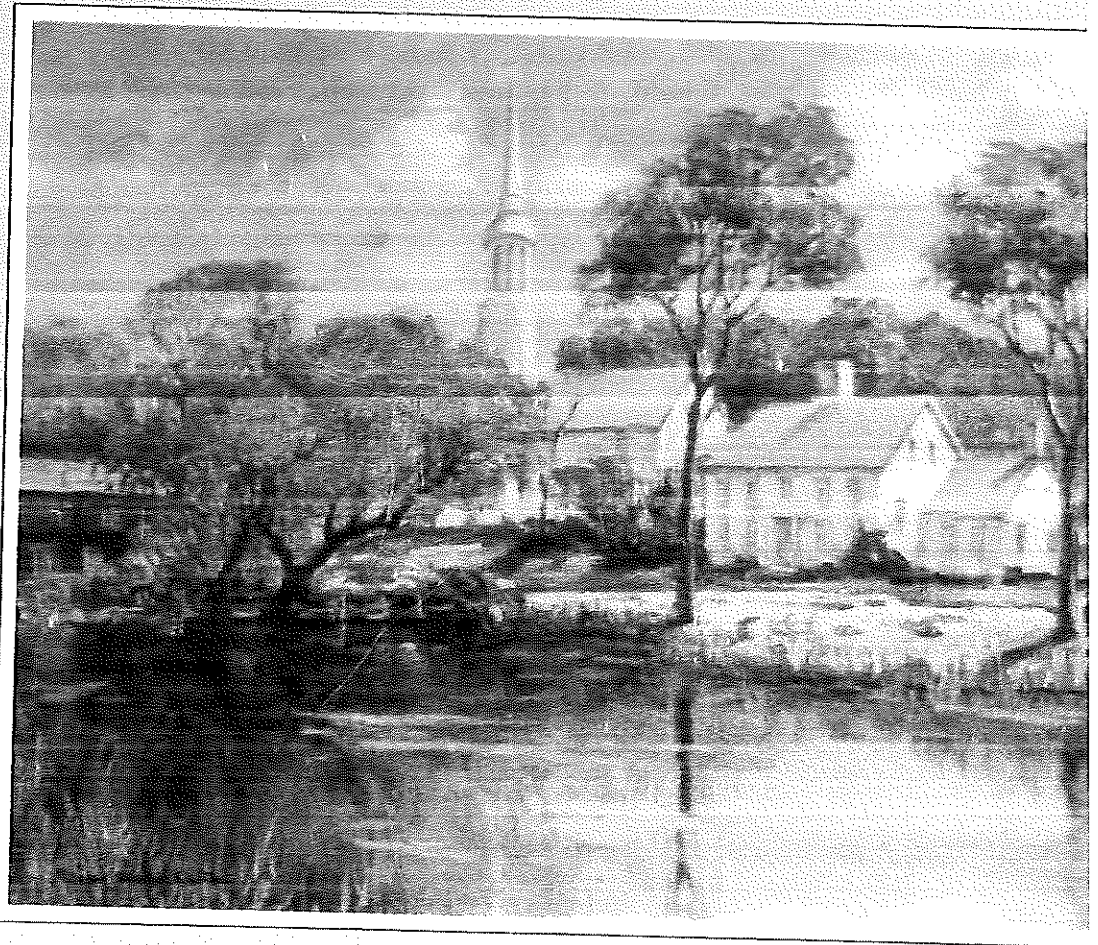
Town Officials

The towns were urged to name three or five selectmen from 16 serve in hearing cases of debt and minor offenses, damage to cr animals, Indian cases, church attendance, arrival of strangers, marters. The first selectmen found in Sandwich records were in 166; Thomas Burgess, James Skiff and Thomas Tupper Senior. The oth positions were those of deputy to Plymouth Court from 1639, a (assessors) from 1651. The same dozen or so early settlers seem these various positions and must have welcomed able young me younger generation. In 1667 Sandwich was allowed to send only on to Plymouth Court instead of two, because of a "scarcity of fit public employment." In 1672, a father and son served as selectme and Stephen Skiff) and 1691 brothers Elisha and Shearjashub Neighborhood men all had to take turns as local road surveyor, an once each head of household had to take the unpopular constable po;

Construction

We have already mentioned the town dock for which the road were taken from Thomas Tupper Senior on what was later called Dc in the Jarvisville area. This location was preferred over an alterna through George Buit's meadow to another branch of the streams in Marsh. From later references to Buit's lands and the fact that a ve built and launched off George's Rock Road in 1811, we propose th: Buit for whom George's Rock Road was named. The Rock is ar located at the edge of the marsh. The dock was finished by John

A Cape Cod Town



by R.A. Lovell, Jr.

Town of Sandwich Massachusetts
Archives and Historical Center
1996

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 03-14-2013 @ 01:37pm
Ct1#: 928 Doc#: 15547
Fee: \$430.92 Cons: \$126,000.00

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 03-14-2013 @ 01:37pm
Ct1#: 928 Doc#: 15547
Fee: \$340.20 Cons: \$126,000.00

QUITCLAIM DEED

We, ROBERT L. GOYER, of 860 Fox Den Road, Culpeper, VA 22701, SUSAN TEFFAR, of 4884 Memory Lane, Manlius NY 13104 and NANCY L. GALLERY of 138 Greenridge Drive, Manlius NY 13104

for consideration paid of One Hundred Twenty Six Thousand and 00/100 (\$126,000.00) Dollars

grant to

BARBARA M. LAFLAM, of 20 Cook Road, Southamptn, Massachusetts, 01073

with quitclaim covenants

The eight tracts of land described on Exhibit A attached hereto.

For title see deeds from Ronald Yackel, Trustee, dated December 15, 2011, recorded in the Barnstable County Registry of Deeds in Book 25961, Page 105, Book 25961, Page 106, Book 25961, Page 108, Book 25961, Page 110, Book 25961, Page 112, Book 25961, Page 114, Book 25961, Page 116 and Book 27073, Page 113. See also the Estate of Evert Baker, Barnstable County Probate Docket No. 05P1633AD1 and the Estate of Bertha M. Baker, Hampshire County Probate Docket No. 05P0361AD 1

Affected Premises:

297 Meiggs-Backus Road, Sandwich, MA

0 Wakeby Road, Barnstable, MA

1597 Santuit-Newtown Road, Barnstable, MA

1627 Santuit-Newtown Road, Barnstable, MA

300 Meiggs-Backus Road, Sandwich, MA

227 Old Barnstable Road, Mashpee, MA

0 East Falmouth Highway, East Falmouth, MA

1055 East Falmouth Highway, East Falmouth, MA

Off Sady's Lane, East Falmouth, MA

501 Cotuit Road, Mashpee, MA

now 830 Wakeby Road

Witness my hand and seal this 16th day of February, 2013.


ROBERT L. GOYER

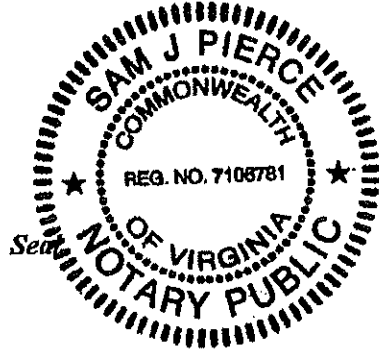
COMMONWEALTH OF VIRGINIA

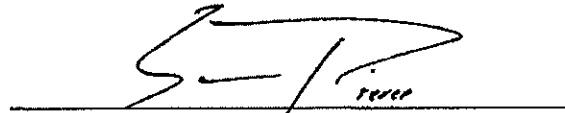
County: Culpeper

On this 16th day of February, 2013, before me, the undersigned Notary Public, personally appeared Robert L. Goyer, proved to me through satisfactory evidence of identification being (check whichever applies):

- Driver's license or other state or federal governmental document bearing a photograph image; or
- Oath or affirmation of a credible witness known to me who knows the above signatory; or
- My own personal knowledge of the identity of the signatory to be the person whose name is listed above

and acknowledges to me that he signed the foregoing instrument voluntarily of his own free act and deed.




 Notary Public Sam Pierce
 My Commission Expires: July 31, 2015

Witness my hand and seal this 16th day of February, 2013.

Susan L. Teffar
SUSAN TEFFAR

STATE OF NEW YORK

County: Onondaga

On this 16th day of February, 2013, before me, the undersigned Notary Public, personally appeared Susan Teffar, proved to me through satisfactory evidence of identification being (check whichever applies):

Driver's license or other state or federal governmental document bearing a photograph image; or
Oath or affirmation of a credible witness known to me who knows the above signatory; or
My own personal knowledge of the identity of the signatory to be the person whose name is listed above

and acknowledges to me that he signed the foregoing instrument voluntarily of his own free act and deed.

Paulette A. Weber

Notary Public
My Commission Expires: December 6, 2013

Seal

PAULETTE A. WEBER
Notary Public, State of New York
Qualified in Onondaga County
No. 01WE6034315
Commission Expires Dec. 6, 2013

Witness my hand and seal this 16th day of February, 2013.

Nancy L. Gallery
NANCY L. GALLERY

STATE OF NEW YORK

County: Onondaga

On this 16th day of February, 201~~2~~³, before me, the undersigned Notary Public, personally appeared Nancy L. Gallery, proved to me through satisfactory evidence of identification being (check whichever applies):

- Driver's license or other state or federal governmental document bearing a photograph image; or
- Oath or affirmation of a credible witness known to me who knows the above signatory; or
- My own personal knowledge of the identity of the signatory to be the person whose name is listed above

and acknowledges to me that he signed the foregoing instrument voluntarily of his own free act and deed.

Paulette A. Weber

Notary Public
My Commission Expires: December 6, 2013

Seal

PAULETTE A. WEBER
Notary Public, State of New York
Qualified in Onondaga County
No. 01WE6034315
Commission Expires Dec. 6, 20~~12~~¹³

Σ 4 A
Tract 1

297 Meiggs-Backus Road, Sandwich, MA & 0 Wakeby Road, Barnstable, MA

The following real estate lying in Sandwich and Barnstable, Barnstable County, Massachusetts, bounded and described as follows:

Beginning on Mills Road at a heap of stones by land of Reubin Fisk's heirs or grantees; thence Northerly by trees marked, twenty-nine and one-half (29 1/2) rods to an oak tree; thence North twenty-nine degrees West about forty (40) rods to Asa Meiggs' range; thence by said Meiggs' to road leading to Polly Baccus house; thence Easterly on said road about thirty-eight and one-half (38 1/2) rods to a stake; thence South twenty-six degrees East by trees marked, about fifty-three and one-half (53 1/2) rods to a stake; thence East seven (7) rods to range at George Landers; thence on said range Southerly to said Mills road at a stake; thence Westerly on said last named road to the first bound and contains thirty acres, be the same more or less.

Subject to restrictions, agreements and easements at record, if any, so far as the same may now be in force and applicable to the granted premises.

For Title see Barnstable County Registry of Deeds Book 577, Page 431.

ZLA

Tract 2

1597 Santuit-Newtown Road, Barnstable, MA

The land in Barnstable (Santuit), Barnstable County, Massachusetts, said land being bounded and described as follows:

Commencing at the Northeasterly corner of the premises at a concrete bound set in the Westerly line of the Santuit-Newtown Road, so-called, and at the Southeasterly corner of land now or formerly of Edbon Rogers;

thence N. $63^{\circ} 05' 40''$ W. in line of said Rogers land two hundred eight and $31/100$ (208.31) feet to a concrete bound;

thence S. $49^{\circ} 07' 00''$ W. fifty-nine and $6/10$ (59.6) feet, more or less, through a concrete bound to the center line of a wood road and land now or formerly of Avis M. Baker;

thence in a generally Southeasterly and Southerly direction by the center line of said wood road and by land now or formerly of said Avis M. Baker, one hundred twenty-five (125) feet, more or less, to a point a short distance Westerly of a concrete bound (the next concrete bound herein referred to);

thence S. $68^{\circ} 28' 00''$ E. through said concrete bound one hundred fifty-nine (159) feet, more or less, and by other land of the grantors and grantee (Evert L. Baker) to a concrete bound in the Westerly line of said Santuit-Newtown Road, so-called; and

thence Northerly (slightly easterly) in the Westerly line of said Santuit-Newtown Road by two (2) courses, a distance of one hundred twenty-five and $45/100$ (125.45) feet to the point of beginning.

Said premises being more particularly shown and described as Parcel "A" on a plan entitled "Plan of Land-Barnstable (Santuit), Mass. Property of Heirs of Ozial A. Baker, Scale $1''=40'$, January 1942, Whitney & Bassett, Architects & Engineers, Hyannis, Mass." which said plan is recorded in the Barnstable County Registry of Deed in Plan Book 66, Page 87.

For title see Barnstable County Registry of Deeds, Book 589, Page 40.

Exh A
Tract 3

1627 Santuit-Newtown Road, Barnstable, MA

the land with buildings thereon in Barnstable, Barnstable County, Massachusetts, bounded and described as set forth in a certain deed from Edgar M. Lovell to Ozial A. Baker, dated March 26, 1897, as more particularly described in Assessor's Map: 024 Parcel: 007.

Said premises being more particularly shown and described as Parcel "B" on a plan entitled "Plan of Land-Barnstable (Santuit), Mass. Property of Heirs of Ozial A. Baker, Scale 1"= 40', January 1942, Whitney & Bassett, Architects & Engineers, Hyannis, Mass." which said plan is recorded in the Barnstable County Registry of Deed in Plan Book 66, Page 87.

Subject to restrictions, agreements and easements of record, if any, so far as the same may now be in force and applicable to the premises.

For Title see Barnstable County Registry of Deeds Book 227, Page 225.

Each A

Tract 4

300 Meiggs-Backus Road, Sandwich, MA

A certain parcel of swamp, cranberry bog and upland situated in Sandwich, in the County of Barnstable, containing about five acres of swamp and bog and three acres of upland, be the same more or less, bounded as follows:

Beginning at a point on the Southerly side of the road leading from Newtown to Mashpee by the Home lot of the late Asa Meiggs, at a stake in the swamp, and running Westerly crossing said road, by a line of stakes and stones: thence Northeasterly on a line midway between two swamps to a stake and stones; thence Southerly to said road and crossing the same, continuing to the point of beginning.

Reserving to Andrew L. Lawrence, his heirs and assigns a right of way across the upland North of the swamp, and a right to build and maintain a drain suitable to drain the swamp North of said premises.

For Title see Barnstable County Registry of Deeds Book 676, Page 249 and Book 429, Page 49

ELA
Tract 5

227 Old Barnstable Road, Mashpee, MA

A certain cranberry bog known as "West Place Bog", situated in Mashpee, Barnstable County, Massachusetts, bounded and described as follows:

Bounded on the North, East, South and West by the Walter R. Mingo 210 acre lot, so-called, also known as the "Foller Field Bog" by the Old Falmouth Road; containing three-eighths (3/8ths) acres, more or less.

Together with such right and rights of way to and from said bog and sand rights which I may own.

For title see Barnstable County Registry of Deeds, Book 535, Page 548.

Sub A
Tract 6

0 East Falmouth Highway, East Falmouth, MA &
1055 East Falmouth Highway, East Falmouth, MA

the land in Falmouth, Barnstable County, Massachusetts, bounded and described as follows:

NORTHEASTERLY: by Parcel A as shown on a plan hereinafter referred to, 165.7 feet;
NORTHWESTERLY: by Parcel A, 954.24 feet;
SOUTHWESTERLY: by land now or formerly of Sumberg, 170.11 feet; and
SOUTHEASTERLY: by land of the Grantee (Evert Baker), 1010 feet, more or less.

Said Parcel is shown as Lot B containing 3.96 acres, more or less, on a Plan by Lamont R. Healy, Inc., dated April 10, 1975 to be recorded herewith. Plan Book 329, Page 39.

Also Lot 1, Section A, in Seacoast Shores as shown on a Plan by Frederick C. Harlan dated April 15, 1947 recorded with Barnstable Deeds in Plan Book 78, Page 13.

The premises are conveyed together with the right to pass over Parcel A on said Plan on the wagon road shown thereon for the purposes of entrance and exit to Parcel B and to the Grantee's adjoining land.

For Title see Barnstable County Registry of Deeds Book 2884, Page 238.

Ex A

Tract 7

Off Sady's Lane, East Falmouth, MA

the following described parcel of cranberry bog, swamp and upland situated in that part of Falmouth in the County of Barnstable called East Falmouth, and bounded as follows:

Beginning at the State Highway and by land formerly of Foster Jenkins and now supposed to be of Earl Ovington; thence running in a Southerly direction by said land formerly of Jenkins to other land supposed to be of Ovington and formerly of John H. Robinson; thence running Westerly by said land formerly of John H. Robinson to other land formerly of John H. Robinson; thence Northerly and Westerly by said land formerly of John H. Robinson to land formerly of John Tobey; thence Northerly by land formerly of John Tobey to land formerly of William H. Crocker; thence Easterly and Northerly by said land formerly of William H. Crocker to said State Highway; thence Easterly by said State Highway to the point of beginning; Together with any and all rights that I can convey as follows, namely; to the use of any roads adjoining said premises or leading thereto; any rights to take sand or other material for the purpose of maintaining said bogs; and to any and all water or flowage rights in connection with same.

For Title see Barnstable County Registry of Deeds Book 466, Page 594 and Book 466, Page 595.

ΣΑΑ

Tract 8

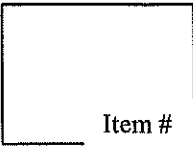
501 Cotuit Road, Mashpee, MA

a parcel of Land in Mashpee, Barnstable County, Massachusetts, together with any buildings thereon, bounded and described as follows:

- NORTHERLY:** Commencing at a cement boundary with drill hole located at the intersection of Sandwich Cotuit Road and Tobey's Back Road, being an overgrown ancient way, and proceeding along Tobey's Back Road to a point one thousand two hundred thirty two and 89/100 (1,232.89) feet; thence
- SOUTHEASTERLY:** a distance of seven hundred twenty and 70/100 (720.70) feet to a cement boundary with drill hole; thence
- SOUTHEASTERLY:** a distance of five hundred fifty nine and 23/100 (559.23) feet to a cement boundary with drill hole; thence
- SOUTHWESTERLY:** a distance of four hundred seventy two and 84/100 (472.84) feet; thence
- WESTERLY:** a distance of one hundred ninety five and 04/100 (195.04) feet; thence
- SOUTHWESTERLY:** a distance of five hundred twenty seven and 28/100 (527.28) feet to a cement boundary on Sandwich Cotuit Road; thence
- NORTHERLY:** a distance of three hundred thirty nine and 48/100 (339.48) feet along Sandwich Cotuit Road to the point of beginning.

Containing 24.6 ± acres and being shown as Parcel 4 on plan of land entitled 'Plan of Land in Mashpee, MA prepared for Ralph Baker Scale 1" = 40' Date: June 14, 2000. Prepared by Stephen J. Doyle and Associates, 42 Canterbury Lane, East Falmouth, MA 02536," said plan being duly recorded in the Barnstable County Registry of Deeds in Plan Book 567 Page 100.

Being the same premises conveyed to the grantors by deed of Ronald Yackel, Trustee, dated January 11, 2013, recorded in Barnstable County Registry of Deeds in Book 27073, Page 113.



CONSERVATION RESTRICTION
DRAFT 1

Property location: 830 Wakeby Road, Marstons Mills

BARNSTABLE LAND TRUST, INC. (Federal ID #22-2483963), a Massachusetts charitable corporation with an office at 1540 Main Street, West Barnstable, MA 02668, its successors and permitted assigns ("Grantor"), in consideration of Four Hundred and Eighty Thousand and 00/100[\$480,00.00) Dollars, , pursuant to the provisions of the Community Preservation Act, G.L. Ch. 44B § 12 (a), grants to **THE INHABITANTS OF THE TOWN OF BARNSTABLE**, a Massachusetts municipal corporation with principal offices at Town Hall, 367 Main Street, Hyannis, Barnstable County, Massachusetts 02601-3907, its successors and assigns, ("Grantee"), with quitclaim covenants, **IN PERPETUITY** and exclusively for conservation purposes, the following described **CONSERVATION RESTRICTION** (hereinafter referred to as "Restriction"), on a parcel of vacant land totaling 15.80 acres more or less, located in the Village of Marstons Mills, Town of Barnstable, County of Barnstable, Commonwealth of Massachusetts, said parcel being described in Exhibit A and shown in Exhibits B and C, which are attached hereto and made a part hereof, (hereinafter referred to the "Premises"). The Grantor and Grantee, their successors and assigns, are bound by and subject to the terms and conditions of this Restriction.

Grantor: Barnstable Land Trust, Inc.
Grantee: Town of Barnstable
Property Address: 830 Wakeby Road, (Village of Marstons Mills), Barnstable, Massachusetts,
Grantor's Title: Barnstable County Registry of Deeds in Book _____, Page _____ (pending).

The conveyance of this Restriction is made pursuant to the vote of the Barnstable Town Council, at a duly called meeting held on _____, on Agenda Item 2020-_____, to authorize the Town Manager to accept this Restriction on the Premises on behalf of the Town in compliance with the provisions set forth herewithin, and as defined in the Community Preservation Act, G.L.44B § 1 et seq. as applied pursuant to Chapter 149, §298 of the Acts of 2004, as amended by Chapter 352, §129-133 of the Acts of 2004 (the so-called "Barnstable County Community Preservation Act" or "CPA"). A copy of the Town Council Ordinance is attached hereto as Exhibit C.

I. PURPOSES: This Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws, and otherwise by law. The purpose of this Restriction is to assure that the Premises, while permitting the acts and uses described in Article III herein, will be retained in perpetuity predominately in its natural, scenic and open condition; to protect and promote the conservation of water supplies, native vegetation, soils, forestland habitat and wildlife thereon; to protect and enhance the value of the abutting conservation areas; to allow and maintain appropriate public access for enjoyment of the wildlife and open space resources and for passive recreation. The conservation and permanent protection of the Premises will yield a significant public benefit for the following reasons:

Conservation Land Tax Credit: CLTC Program. The Premises was acquired utilizing, in part, the Conservation Land Tax Credit Program authorized under Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

***(proposed)* Local Acquisitions for Natural Diversity (“LAND”) Grant Program.** The Premises was acquired by using, in part, funds from the Local Acquisitions for Natural Diversity (“LAND”) Grant Program, which is pursuant to Section 11 of Chapter 132A of the Massachusetts General Laws and Section 2A of Chapter 286 of the Acts of 2014 and therefore the Premises is subject to a LAND Grant Project Agreement (“Project Agreement”) recorded herewith in the Barnstable County Registry of Deeds in Book _____, Page _____. A copy of the Project Agreement is attached hereto as Exhibit D.

- A. The Premises falls 100% within a Zone 2 Area of Contribution to Public Water Supply. Protection of the Premises from further development with this Conservation Restriction will assist in maintaining the quantity and quality of a public water supply.
- B. The Premises consist of approximately 15.80 acres of Statewide Wildlife Action Plan species of greatest conservation need in pine-oak upland forest, approximately 95% of which is Prime Forest Land, a defined MassGIS map layer based on USDA soil data which reflect high potential for white pine and red oak forest development, wetlands and riparian area presence. Fox, coyote, and deer, eastern box turtle, migratory warblers, bobwhites are among the species that prefer to inhabit this type of forested upland.
- C. The Premises is 95% within a Statewide Land Conservation Plan area, a high priority for protection, and contains 100% Massachusetts Natural Heritage and Endangered Species Program (“NHESP”) BioMap2 designated Critical Natural Landscape, Landscape Block. BioMap2, published in 2010, guides strategic biodiversity conservation in Massachusetts by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. The Critical Natural Landscape, and specifically Landscape Blocks, identifies large areas of high quality intact and predominately natural vegetation. BioMap2 is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan. Protection of the Premises, therefore, aligns with the NHESP’s wildlife and habitat protection objectives and would ensure perpetual protection for each of these state-recognized habitats.
- D. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan (RPP)*, amended in 1996, 2002, 2009, 2012, and 2018, which provided, *inter alia* (references are to the 2018 RPP):
 - “To maintain a sustainable supply of high quality untreated drinking water and protect, preserve, or restore the ecological integrity of Cape Cod’s fresh and marine surface water resources” (Water Resources Goal, pp. 54);
 - “To protect, preserve, or restore wildlife and plant habitat to maintain the region’s natural diversity” (Wildlife and Plant Habitat Goal, pp. 55).

- In reference to this Wildlife and Plant Habitat Goal, the RPP states, “For many years habitat loss due to development has been the primary threat to the region’s habitats” (pp. 32); and
- “To conserve, preserve, or enhance a network of open space that contributes to the region’s natural community resources and systems” (Open Space Goal, pp. 55). In reference to this Open Space Goal, the RPP states, “[t]he open space of the Cape is critical to the health of the region’s natural systems, economy, and population. Open space provides habitat for the region’s diverse species and protection of the region’s drinking water supply” (pp. 30).

Granting this Conservation Restriction will advance each of these goals outlined in the RPP. The Water Resources Goal will be served because the Premises falls entirely within a Zone II Area of Contribution to a Public Water Supply, and implementing this Conservation Restriction will aid in maintaining drinking water quality in the area. The Wildlife and Plant Habitat Goal will be served because the Premises contains a host of important plant and wildlife species, and falls within an NHESP BioMap2 Critical Natural Landscape area. The Open Space Goal will be advanced because the Premises is proximate to several other open space parcels, including Town of Sandwich Conservation Land abutting, and Town of Barnstable’s Santuit Pond Conservation Area across Wakeby Road.

- E. Protection of the Premises will help to maintain the natural and rural character of the village of Marstons Mills within the Town of Barnstable with this added protected open space. To the south, the Town of Barnstable's and Mashpee's 287-acre Santuit Pond Reserve, and to the west, Sandwich's Boudreau Conservation Area totals almost one square mile.
- F. Conservation of the Premises also supports Barnstable Town Council's Strategic Plan FY2015 which seeks to promote the preservation and protection of significant natural resources for visual quality, outdoor recreation, public access, and wildlife habitat.
- G. This Conservation Restriction follows the vision and guidance for the Town of Barnstable's Open Space and Recreation Plan (2018) which states that 1) "Preservation of open space for protection of drinking water resources, and for protection of other natural, historic and scenic resources is a community-wide priority; and 2) Protection of open space should continue to be an integral component of the Town's efforts." (p. 6) To achieve this vision, the Plan sets several goals for the town including: 1) "To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities and community character, and 2) Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, [and] preserve historic, scenic and cultural resources..." (pp. 10-11).
- H. Therefore, preservation of the Premises will advance the open space, water and other natural resource management and passive recreational goals and objectives of the Town of Barnstable, Barnstable County, and the Commonwealth of Massachusetts.

The terms of this Restriction are as follows:

II. PROHIBITED ACTIVITIES: In order to carry out the purposes set forth in Article I above, the Grantor covenants for itself and its legal representatives, mortgagees, successors and assigns that the Premises will at all times be held, used and conveyed subject to and not in violation of this Restriction. The Grantor shall refrain from and will not permit any activity which shall be inconsistent with the aforestated purposes of this grant or which is detrimental to water quality, soil conservation, wildlife conservation, scenic landscape protection or which is otherwise wasteful of the natural resources of the Premises.

Subject to the exceptions set forth in Article III, below, prohibited activities shall include, but shall not be limited to, the following:

- A. Construction or placing of any additional building, residential dwelling, mobile home, tennis court, ball fields, benches, swimming pool, artificial water impoundment, billboard, or other advertising display, landing strip or pad, roadway, asphalt or concrete pavement, antenna, wind turbine, solar array, or any other temporary or permanent structure or facility on, under or above the Premises.
- B. Placing, storing or dumping of equipment, mobile home, trailer, automotive vehicle or parts, soil, rock, sand, stumps, slash, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, radioactive waste, or hazardous waste.
- C. Mining, excavation, dredging or removal of any loam, peat, gravel, soil, sand, rock or other mineral substance, or natural deposit from the Premises or otherwise make topographical changes to the Premises unless approved by the Grantee pursuant to the notice procedure set forth in Article IV, below.
- D. Pollution, alteration, depletion, diversion, channelization, damming, draining, or extraction of surface water, natural water courses, marshes, potential or certified vernal pools, subsurface water, or any other water bodies unless approved by the Grantee pursuant to the notice procedure set forth in Article IV, below.
- E. Removal, destruction or cutting of trees, grasses, shrubs or other natural vegetation, including cutting for firewood or commercial harvesting and lumbering activities, except as provided under Article III, below.
- F. Purposeful introduction of species of animals or plants that are not native to Barnstable County, as defined by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, by Bruce A. Sorrie and Paul Somers, published by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program (1999) or as amended or contained in a similar professionally acceptable publication available in the future.
- G. Use of motorized or power-driven vehicles of any kind, including without limitation snowmobiles, motorbikes or all-terrain vehicles, except as necessary for police, firemen, natural resource officers or other governmental agents in carrying out their lawful duties and otherwise provided under Article III, below.

- H. Commercial camping, commercial fishing, commercial hunting or commercial trapping. Any trapping should be disallowed under state law, unless a proven nuisance wildlife.
- I. Conveyance of a part or portion of the Premises alone or division or subdivision of the Premises or use or assignment of the dimensions, area or acreage of the Premises for purposes of subdivision or development of unrestricted land whether or not such land is owned by the Grantor, its successors and assigns. (Conveyance of the Premises in its entirety shall be permitted.)
- J. Activities significantly detrimental to drainage, flood control, water conservation, erosion control or soil conservation.
- K. The excavation of landscape features on the Premises with the intent of collecting or otherwise removing archaeological artifacts (prehistoric and/or historic) except by formal approval of the Massachusetts Historic Commission (MHC) through submission, with the concurrence of the Grantees, of a project notification form (PNF) in accordance with G.L. c. 9, §27C, and associated regulations, as amended.
- L. Archaeological investigations, unless under an Archaeological Field Investigation Permit issued by the State Archaeologist in accordance with G.L. c. 9, §26A, and associated regulations.
- M. Any other use of the Premises or activities which would significantly impair the conservation interests protected by this Restriction, or which are prohibited by federal, state or local law or regulation.

III. PERMITTED ACTIVITIES AND RESERVED RIGHTS: The Grantor reserves to itself and to its heirs, devisees, legal representatives, successors and assigns the right to conduct or permit the following activities on the Premises, but only if such uses and activities do not materially impair the purposes of this Restriction

- A. Active measures taken in order to prevent unauthorized vehicle entry and dumping, vandalism or other acts destructive to the premises.
- B. Active measures taken in order to protect landform stability and endangered species natural habitat.
- C. The use of the Premises for passive recreation activity such as hiking, snowshoeing, cross-country skiing, nature study or research, and other like activities, including access by motorized wheelchairs or other disabled assistance devices.
- D. The maintenance and use of an existing unpaved way, and other footpaths which may exist on the Premises substantially in their present condition or as reasonably necessary for the current and permitted private and public uses thereof and relocation or construction of new footpaths or trails, provided that all applicable federal, state, regional and local approvals are obtained in advance, and the relocation or construction of such ways or trails is consistent with the resource protection goals of the Management Plan; and provided further that the maintenance, use,

relocation or construction of the existing footpath or new or relocated footpaths or trails are not significantly detrimental to species habitat, water quality, soil conservation, wildlife conservation and/or management activities permitted herein, or which are otherwise destructive to the natural or archeological resources on the Premises.

- E. The erection and maintenance of signs identifying ownership of the Premises, the property boundaries, the Premises' status as a conservation reservation, the restrictions on the use of the Premises, the identity or location of trails, areas of interest, natural features or other characteristics of the Premises, or for providing other like information. Signage will be subject to any applicable regional or local approvals. Also the erection of signs, fencing or other barriers consistent with endangered species protection as consistent with Habitat Conservation Permits.
- F. Minimal cutting or removal of trees, shrubs and other vegetation and planting of native trees, shrubs and other vegetation to further the conservation interests protected by this Restriction; to prevent threat of injury or damage to persons or property; to prevent or mitigate pest infestation, blight or disease; to control, manage or eradicate non-native or invasive species not native to the pine-oak upland forest, or coastal plain pond ecosystems; or to improve or protect wildlife habitat.
- G. The use of motor vehicles (1) by the Grantor or its employees and agents as reasonably necessary to carry out activities permitted under this Restriction, (2) for access by Grantee for purposes set forth in Article VI, below, (3) for access by police, fire, emergency, public works, or other governmental personnel carrying out their official duties, and (4) limited to any existing trails or approved trails or ways on the Premises, for access by owners of land or their lessees entitled to use the same in conformance with all applicable federal, state or local laws.
- H. Archaeological investigations consisting of site inspections and subsurface excavations subject to and in accordance with an Archaeological Field Investigation Permit issued by the State Archaeologist under G.L. c. 9, §26A, and associated regulations, and Grantees' written approval in accordance with Article IV, below, none of which shall be unreasonably denied, delayed or withheld.
- I. Any other use not otherwise prohibited by or inconsistent with the purposes of this Restriction, or prohibited by federal, state or local law or regulation.

Notwithstanding the foregoing permitted activities, any proposed modifications to the landscape, including but not limited to the creation of trails, management of vegetation and coastal resources, and installation of signage and educational kiosks, shall not be undertaken if they disturb, remove, damage or destroy archaeological resources or artifacts on the Premises.

The exercise of any right or obligation reserved by the Grantor under this Article III shall be in compliance with all applicable federal, state and local laws. The inclusion of any reserved right in this Article III requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position on whether such permit should be issued.

IV. NOTICE AND APPROVAL: Whenever notice to or approval by Grantee is required under the provisions of this Restriction, Grantor shall notify Grantee in writing not less than sixty (60) days

prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Restriction.

Failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute approval by the Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after sixty (60) days in the notice, provided the requested activity is not expressly prohibited hereunder and the activity will not materially impair the purposes of this Restriction.

In the event the activity proposed is necessary to address an emergency situation, either to avert environmental degradation, ecological damage or risk to public health and safety, Grantee shall respond forthwith and with all deliberate speed.

V. LEGAL REMEDIES OF THE GRANTEE; WAIVER:

The rights hereby granted shall include the right to enforce this Restriction by appropriate legal proceedings including obtaining injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of this grant, it being agreed that the Grantee may have no adequate remedy at law, and shall be in addition to and not in limitation of any other rights and remedies available to the Grantee for the enforcement of this Restriction.

- A. Notwithstanding the foregoing, Grantee agrees to provide written notice to Grantor of any violation of this Restriction and to cooperate for a reasonable period of time, not to exceed sixty (60) days, to allow Grantor to remedy the violation, prior to resorting to legal or equitable means in resolving issues concerning alleged violations provided Grantor has ceased objectionable actions and is making a good faith effort to remedy the violation and Grantee reasonably determines there is no ongoing diminution of the conservation values of the Restriction.
- B. The Grantor and its successors and assigns shall each be liable under this section for any such violations of this Restriction as may exist during their respective periods of ownership of the Premises. Any new owner may be held responsible for any continuing violations existing during his or her period of ownership.
- C. By acceptance of this Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises, including compliance with environmental laws and regulations or acts not caused by the Grantee or its agents.

If Grantee prevails in any action to enforce the terms of this Restriction, the Grantor or Grantor's heirs, successors and assigns, as the case may be, shall reimburse the Grantee for all reasonable costs and expenses, including reasonable attorney's fees, incurred in enforcing this Restriction or in taking reasonable measures to remedy or abate any

violation thereof. If Grantor prevails in any action brought by Grantee to enforce the terms of this Restriction, the Grantee or its heirs, successors and assigns, as the case may be, shall, to the extent allowed by law, reimburse the Grantor for all reasonable costs and expenses, including attorney's fees, incurred in defending such action to enforce this Restriction, provided the Grantee's action is deemed by the court or by other competent authority to be unreasonable or arbitrary and capricious.

- D. Enforcement of the terms of this Restriction shall be at the discretion of the Grantee. Any election or forbearance by the Grantee as to manner and timing of its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver.

VI. GRANTEE'S RIGHT OF ACCESS; INSPECTION:

The Restriction hereby conveyed does not grant to the Grantee any right to enter upon the Premises except at reasonable times and in a reasonable manner for the following purposes and then only in the presence of an employee or employees of the Grantor except as further provided in Section C of this Article VI:

- A. To perform a survey of boundary lines;
- B. To inspect the Premises to determine compliance within provisions of this Restriction;
- C. To enter the Premises with or without the presence of an employee or employees of the Grantor for the purpose of taking any and all actions with respect to the Premises, at Grantor's cost, as may be necessary or appropriate to remedy or abate or enforce any violation hereof provided that Grantee first give Grantor notice of the violation, and upon failure of the Grantor to cure the violation within sixty (60) days after inspection of the Premises by the Grantee with or without the presence of an employee or employees of Grantor, Grantee then gives Grantor further written notice of its intention to enter the Premises to take such actions at least fifteen (15) days following the date of such further written notice.
- D. The Restriction hereby conveyed includes the grant of the further right to Grantee, its successors and assigns, to permit the public to enter upon the Premises, and to permit members of the public to use the Premises and existing and future ways and trails thereon for the purposes set forth in Article III.A above, but only in circumstances where (1) all or most of the public uses described in Article III.A are threatened with termination and (2) Grantee first follows the approval procedure otherwise applicable to Grantor set forth in Article IV.

VII. ACTS BEYOND GRANTOR'S CONTROL: Nothing contained in this Restriction shall be construed to entitle the Grantee to bring any action against the Grantor for any injury or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm, natural erosion or from any prudent action taken by the Grantor under emergency conditions to abate, prevent, or mitigate significant injury to or alteration of the Premises resulting from such natural causes. The parties to this Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it desirable that the Premises be restored, the parties will cooperate in attempting to restore the Premises, if feasible.

VIII. COSTS AND TAXES; LIABILITY: Grantor agrees to pay and discharge when and if due any and all real property taxes and other assessments levied by competent authority on the Premises.

IX. DURATION, BINDING EFFECT, RELEASE AND RECORDATION: The burdens of this Restriction shall run with the Premises IN PERPETUITY, and shall be enforceable against the Grantor and the Grantor's successors and assigns holding any interest in the Premises. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Restriction. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instrument upon reasonable request.

This Restriction may only be released, in whole or in part, by the Grantee pursuant to the procedures established by G. L. c. 184, §32 of the General Laws, in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

X. ASSIGNMENT: The benefits of this Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, their successors and assigns, except in the following instances from time to time:

- A. The assignee is a "qualified organization" as defined in Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, including, without limitation, a government entity, provided that, as a condition of such assignment, the assignee is required to hold this Restriction and enforce its terms for conservation purposes.
- B. In accordance with G.L. c. 184, §32, Grantee shall also have the right to assign the right to enforce this Restriction, so long as the assignee is a governmental body, charitable corporation or trust, or other entity which at the time of such assignment would be qualified to hold this Restriction.
- C. The Grantee complies with the provisions required by Article 97 of the amendments to the State Constitution of the Commonwealth of Massachusetts, if applicable.
- D. The Grantee shall notify the Grantor in writing at least thirty (30) days before assigning this Restriction and the Grantor shall have thirty (30) days from the date of such notice to approve the assignment in writing, which approval shall not be unreasonably withheld. Failure of the Grantor to respond to the notice of assignment within thirty (30) days shall be deemed approval thereof.
- E. Unless expressly stated otherwise in the instrument of assignment, no such assignment of the right to enforce the Restriction shall diminish the rights or benefits held by the Grantee or its successors pursuant to this Restriction, and the Grantee shall retain the equivalent right to enforce this Restriction.

XIII. ESTOPPEL CERTIFICATES: Upon request by the Grantor, the Grantee shall, within twenty (20) days, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor

contained in this Restriction, and which otherwise evidences the status of this Restriction as may be requested by the Grantor.

XIV. SUBSEQUENT TRANSFERS: The Grantor agrees to incorporate the terms of this Restriction, in full or by reference, in any deed or other legal instrument by which Grantor conveys or transfers any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. The Grantor further agrees to notify the Grantee in writing at least thirty (30) days before conveying or transferring the Premises, or any part thereof or interest therein, including a leasehold interest.

XV. TERMINATION OF RIGHTS AND OBLIGATIONS: Notwithstanding anything to the contrary contained herein, the rights and obligations under this Restriction of any party holding an interest in the Premises, terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to the transfer, and liability for the transfer itself if the transfer is a violation of this Restriction, shall survive the transfer.

XVI. AMENDMENT: If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, the Grantor and the Grantee may by mutual consent amend in writing any term or provision hereof provided that this Restriction as thus amended complies with the then applicable requirements of Massachusetts General Law, Chapter 184, Sections 31-33 as amended, and, if applicable, Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts; and provided that any such amendment, together with any approvals necessary to its effectiveness, including that of the Massachusetts Secretary of Energy and Environmental Affairs and the Town of Barnstable Town Manager after public hearing and two thirds affirmative vote of the Town Council constituting a release of this Restriction in whole or in part, shall be recorded with the Barnstable County Registry of Deeds. Any amendment shall be consistent with the purposes of this Restriction, shall not diminish the conservation values of the Premises, shall not affect its perpetual duration or be inconsistent with the Community Preservation Act.

XVII. EXTINGUISHMENT: If at any time by mutual agreement of the parties to release or extinguish this Conservation Restriction in order to enable the Grantor to dispose of the Premises, or if any occurrence or change in conditions ever gives rise to extinguishment or other release of this Restriction, all proceeds, if any shall be distributed in accordance with Massachusetts General Law 44B, Section 7, (iv) as applicable and otherwise in accordance with other applicable law.

If any agreement, occurrence or change in conditions gives rise to release or extinguishment, whether whole or in part, by a court of competent jurisdiction under applicable law, and shall be subject to prior review and approval through any process established under Article 97 of the Constitution of the Commonwealth of Massachusetts if applicable to such an agreement, occurrence or change in conditions.

Proceeds. Grantor and Grantee agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a value that is equal to ten percent (10%) of the fair market value of the unrestricted Premises. For the purposes of this paragraph, said proportionate value shall remain constant.

XVIII. GRANTOR/GRANTEE COOPERATION REGARDING PUBLIC ACTION:

Whenever all or part of the Premises or any interest therein is taken by public authority other than Grantor under power of eminent domain or other act of other public authority, then the Grantor and Grantee shall cooperate in recovering full value or all direct and consequential damages resulting from such action.

All related expenses incurred by the Grantor and Grantee under this section shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed to Grantor in accordance with Massachusetts General Law 44B, §7 (iv).

XIX. NONMERGER: Grantee agrees that it will not take title to any part of the Premises without having first assigned this Restriction to a non-fee holder to ensure that merger does not occur.

XX. SEVERABILITY: If any court of competent jurisdiction shall hold that any section or provision of this Restriction is unenforceable, the remainder of this Restriction shall be construed as though such section had not been included in it. The doctrine of merger shall not apply to this document.

XXI. MISCELLANEOUS PROVISIONS:

- A. Controlling Law: The interpretation and performance of this Restriction shall be governed by the Laws of Massachusetts.
- B. Liberal Construction: Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to affect the purposes of this Restriction and the policies and purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid
- C. Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to the Restriction and super cedes all prior discussions, negotiations, understandings, or agreements related to the Restriction, all of which are merged herein.
- D. Joint Obligation: The obligations imposed by this Restriction upon the parties that together comprise the "Grantor" and "Grantee" shall be joint and several.
- E. Subordination: The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, reference assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction of interpretation.

XXII. EFFECTIVE DATE: This Restriction shall be recorded in a timely manner. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Restriction is recorded in the official records of the Barnstable County Registry of Deeds, after all signatures required by Massachusetts General Law, Chapter 184, Section 32 have been affixed hereto.

EXECUTED under seal this _____ day of _____, 2020.

GRANTOR:
Barnstable Land Trust, Inc.

By:

Joseph Hawley, President
Barnstable Land Trust, Inc.

Deborah Reuman, Treasurer
Barnstable Land Trust, Inc.

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Joseph Hawley, President of the Barnstable Land Trust, and Deborah Reuman, Treasurer, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of the corporation.

Mark H. Robinson, Notary Public
My Commission Expires:

ACCEPTANCE OF THE GRANT

**TOWN OF BARNSTABLE
TOWN COUNCIL**

At a public meeting duly held on _____ 2020, the Town Council of the Town of Barnstable, Massachusetts, voted to approve the foregoing Conservation Restriction, pursuant to Massachusetts General Laws, Chapter 184, Section 32.

TOWN COUNCIL

PRESIDENT: _____
Paul Hebert

Barnstable, ss COMMONWEALTH OF MASSACHUSETTS

On the ____ day of _____, 2020, before me, the undersigned notary public, personally appeared **Paul Hebert**, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that she is the President of the Town Council of the Town of Barnstable; that he is duly authorized to act on behalf the Town Council; and he acknowledged the foregoing instrument to be the free act and deed of Town of Barnstable Town Council.

Notary Public
My Commission Expires:

APPROVAL OF TOWN MANAGER

I, Mark S. Ells, as Town Manager of the Town of Barnstable, Massachusetts, hereby approve the foregoing Conservation Restriction to Barnstable Land Trust, Inc. pursuant to Massachusetts General Laws, Chapter 184, Section 32.

**TOWN OF BARNSTABLE
TOWN MANAGER:** _____

Mark S. Ells

Barnstable, ss

On the _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Mark S. Ells, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the Town Manager of the Town of Barnstable,; that he is duly authorized to act on behalf the Town of Barnstable and she acknowledged the foregoing instrument to be his free act and deed.

Notary Public
My Commission Expires

**SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Energy & Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Restriction from the Town of Barnstable to the Barnstable Land Trust, Inc. has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32. Said approval is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Restriction.

Date: _____, 2020

KATHLEEN A. THEOHARIDES
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

_____, 2020

Then personally appeared the above-named Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that she signed it voluntarily as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts, for its stated purpose.

Notary Public
My commission expires:

**CONSERVATION RESTRICTION
ON LAND OWNED BY
TOWN OF BARNSTABLE
IN
BARNSTABLE, MASSACHUSETTS**

EXHIBIT A

Description of the Premises

The Premises subject to this Conservation Restriction is a 15.80-acre, more or less, tract of land located in the Village of Marstons Mills, in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts, more particularly bounded and described as follows:

All of **Lot 2** on a plan of land entitled, "Plan of Land of LaFlam Property at Meiggs-Backus Road and Wakeby Road, Sandwich MA & Barnstable MA, prepared for Barbara LaFlam, Trustee, Date: January 20, 2020, down cape engineering, inc. ciil engineers, land surveyors, 939 Main Street (Rte. 6A), Yarmouthport MA 02675," and recorded herewith in the Barnstable County Registry of Deeds in Plan Book _____ Page _____.

For Grantor's Title: *(pending: LaFlam, Trustee, to Barnstable Land Trust, Inc.)*

Town of Barnstable Assessor Map 013, Lot 003 (portion)

Street Address: 830 Wakeby Road, Marstons Mills, MA 02648.

WAKEBY ROAD CONSERVATION RESTRICTION
BARNSTABLE MA

EXHIBIT B
Plan of Record, 1979

PLAN OF LAND IN BARNSTABLE & SANDWICH MASS.	
DRAWN BY A.R.H.	SCALE: 1 IN. = 100 FT.
CHECKED BY J.M.H.S.	DATE: MAY 8, 1979
CHARLES N. SAVERY INC. REGISTERED ENGINEERS SURVEYORS MASS.	
No. 73250	

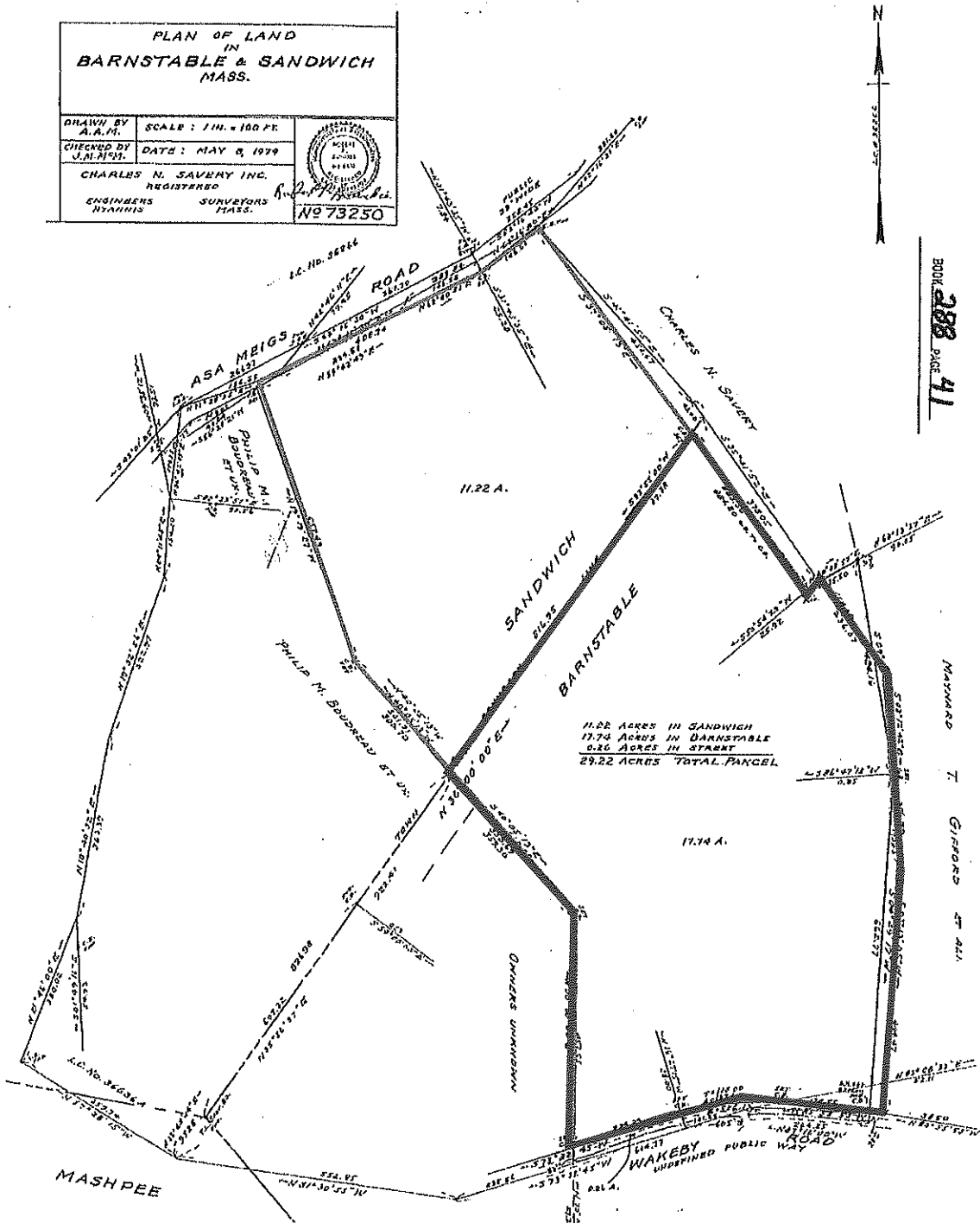


EXHIBIT C
Sketch of the Premises, 2020

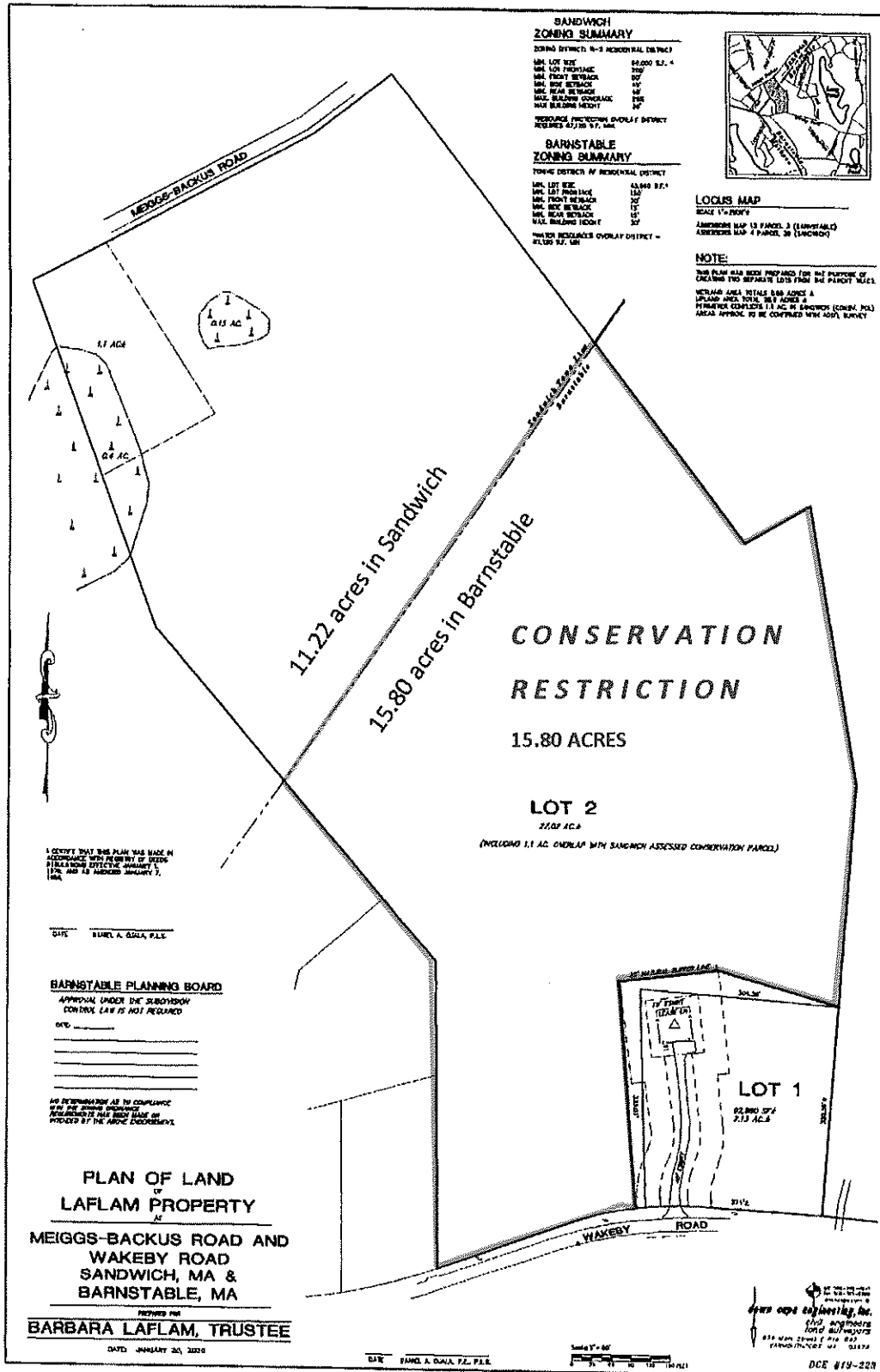


EXHIBIT D
Town Council Ordinance

[reserved]

EXHIBIT E
State LAND grant Project Agreement

[reserved]