

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY OCTOBER 24, 2011

7:45pm Ald. Chamber, Room 202

ITEMS SCHEDULED FOR DISCUSSION:

#272-11 RICHARD & ANDREE WILSON requesting that His Honor the Mayor and the Board of Aldermen accept a Conservation Restriction on approximately 1.5 acres of their property at 15 Bracebridge Road; the proposed Restriction has been reviewed and approved by the Newton Conservation Commission and the Newton Conservators and will be held by the Newton Conservators. [9/26/11 @2:04PM]

Public Hearing assigned for October 24, 2011:

#249-11 FRANK UTANO et al. filing with the City Clerk on August 11, 2011 a Group Petition with 51 qualified voter signatures, pursuant to Sec. 10-2 of the City Charter, requesting a special meeting with the Board of Aldermen to discuss the amended zoning laws scheduled to take effect in October, 2011. [August 18, 2011]
NB: Board action shall be taken not later than three months from the date the petition was filed with the City Clerk. [Nov 9, 2011]

#49-11 ALD. JOHNSON, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning & Development and Commissioner of Inspectional Services review with the Zoning & Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments. [02-15-2011 @8:44AM]

Public hearing was held on September 26, 2011:

#26-11(2) PLANNING AND DEVELOPMENT BOARD submitting in accordance with Section 7-2 of the City Charter an amendment to the 2007 Newton Comprehensive Plan to create a new Mixed Use Centers Element to be numbered section 3.A in the Comprehensive Plan and to include a vision

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, contact the Newton ADA Coordinator Trisha Guditz at 617-796-1156 or tguditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting.

and guidance for the development or redevelopment of large mixed-use centers.

- #81-11 ALDERMEN JOHNSON, CROSSLEY, HESS-MAHAN, LAPPIN & DANBERG requesting the Director of Planning & Development and the Chair of the Zoning Reform Scoping Group provide updates on the Scoping Group's Progress. These updates will occur at the frequency determined by the Chair of the Scoping Group and the Chair of the Zoning and Planning Committee. [3/14/2011 @ 11:16PM]

Re-appointment by His Honor the Mayor

- #295-11 JOYCE MOSS, 229 Franklin Street, Newton, re-appointed to the PLANNING & DEVELOPMENT BOARD for a term of office to expire February 1, 2014 (60 days 12/16/11). [10-11-11 @2:18PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #64-11 HIS HONOR THE MAYOR, in coordination with the Director of Planning and Development, requesting to amend Section 30-15, Table 4, Dimensional Controls for Rear Lot Development in Residential Zones as they pertain to floor area ratio. [02-22-11 @ 6:47PM]
- #150-08 ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4/15/08 @ 2:17PM].
- #153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts. [05-10-11 @3:19 PM]
- #153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]
- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms "flat roof" and "sloped roof" be defined in the zoning ordinance.
- #162-11 ALD. YATES requesting a report from the Director of Planning and Development on the status of the update of the *Open Space and*

Recreation Plan, particularly as it pertains to the Charles River Pathway.
[05/12/11 @ 10:16AM]

- #65-11(2) TERRENCE P. MORRIS & JOSEPH PORTER proposing amendments to the Zoning Ordinance to revise the definition of “height” in Section 30-1 B) and to add a provision in Section 30- 15(m) to allow accessory structure height limits to be waived by special permit. [03-30-11 @ 4:12PM]
(Public Hearing closed 4-25-2011; 90 day expiration July 22, 2011)
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @ 11:34AM]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]
- #365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
- #150-09(3) ALD. ALBRIGHT, JOHNSON, LINSKY proposing that a parcel of land located in Newtonville identified as Section 24, Block 9, Lot 15, containing approximately 74,536 square feet of land, known as the Austin Street Municipal Parking Lot, currently zoned Public Use, be rezoned to Business 4. (12/10/10 @9:21AM)
- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]
- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: “(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;” and renumbering existing subsection (5) as (6). [06/07/10 @ 12:00 PM]
- #474-08 ALD. HESS-MAHAN & VANCE proposing that Chapter 30 be amended to transfer from the Board of Aldermen to the Zoning Board of Appeals and/or the Planning & Development Board the special permit granting authority for special permit/site plan petitions not classified as Major Projects pursuant to Article X of the Board Rules. [12/09/08 @ 3:26 PM]

- #152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #411-09 ALD. DANBERG, MANSFIELD, PARKER requesting that §30-19(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.
- #391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #391-09(2) ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.
FINANCE VOTED NO ACTION NECESSARY 10/12/11
- #207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants. [07/07/09 @ 12:42 PM]
- #61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

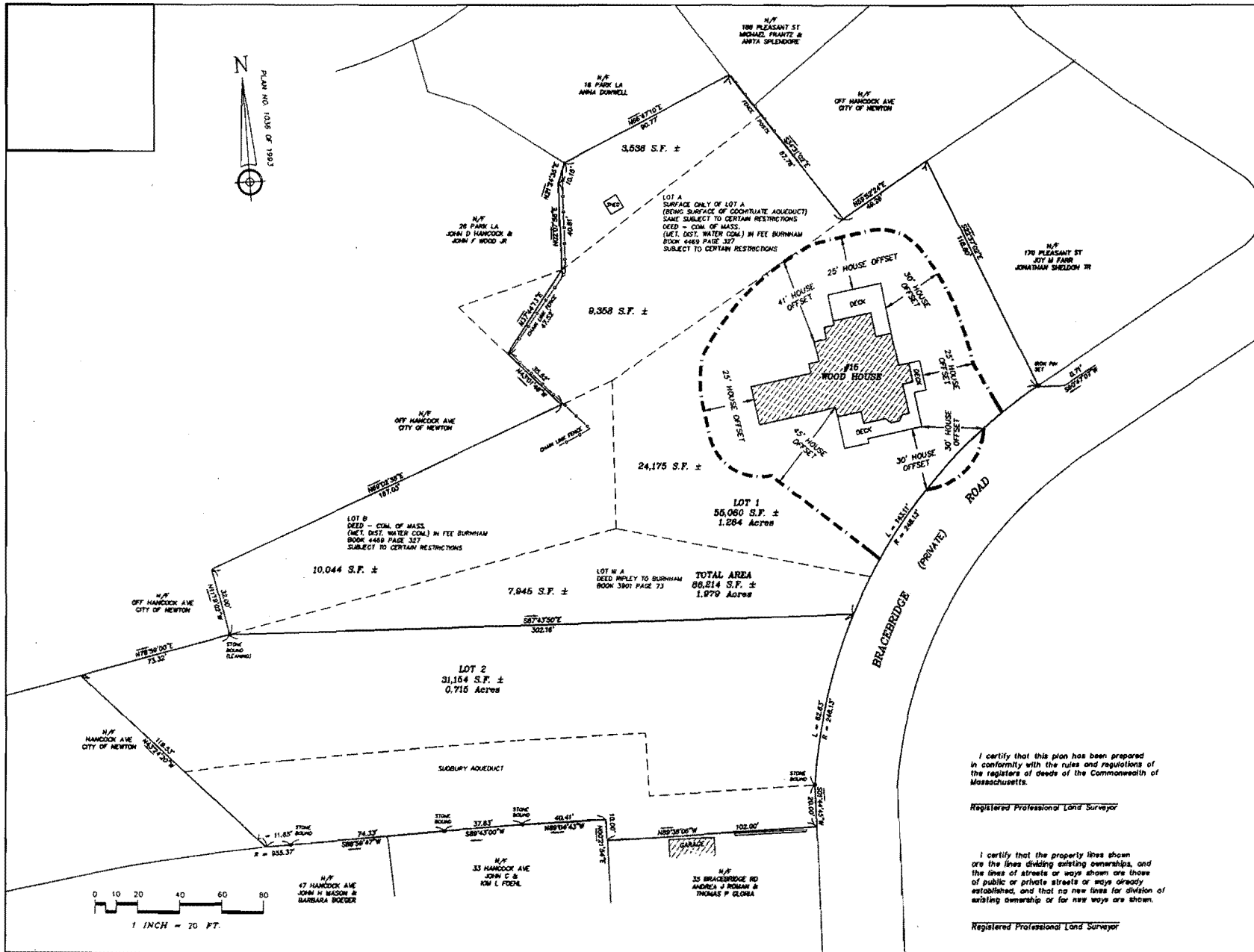
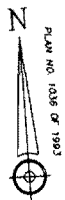
#48-06 ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

#60-10 ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen.
[02/23/10 @ 3:24 PM]

Respectfully Submitted,

Marcia Johnson, Chairman



R.E. Conner & Associates, Inc.
LAND SURVEYORS - CIVIL ENGINEERS
861 WASHINGTON STREET
NORWOOD, MA 02062
(781) 769-1777 Fax (781) 769-8644

SCALE: 1"=20' DATE: 6/21/11
DRAWN BY: SLS MATH: SLS23/S1
JOB NUMBER: 3882 CHECKED BY:
CITY: MIDDLESEX

CONSERVATION RESTRICTION BOUNDARIES
16 BRACEBRIDGE ROAD
NEWTON, MASSACHUSETTS

3882B

Revisions	
No.	Date

SHEET NUMBER

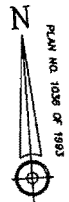
I certify that this plan has been prepared in conformity with the rules and regulations of the registers of deeds of the Commonwealth of Massachusetts.

Registered Professional Land Surveyor

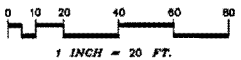
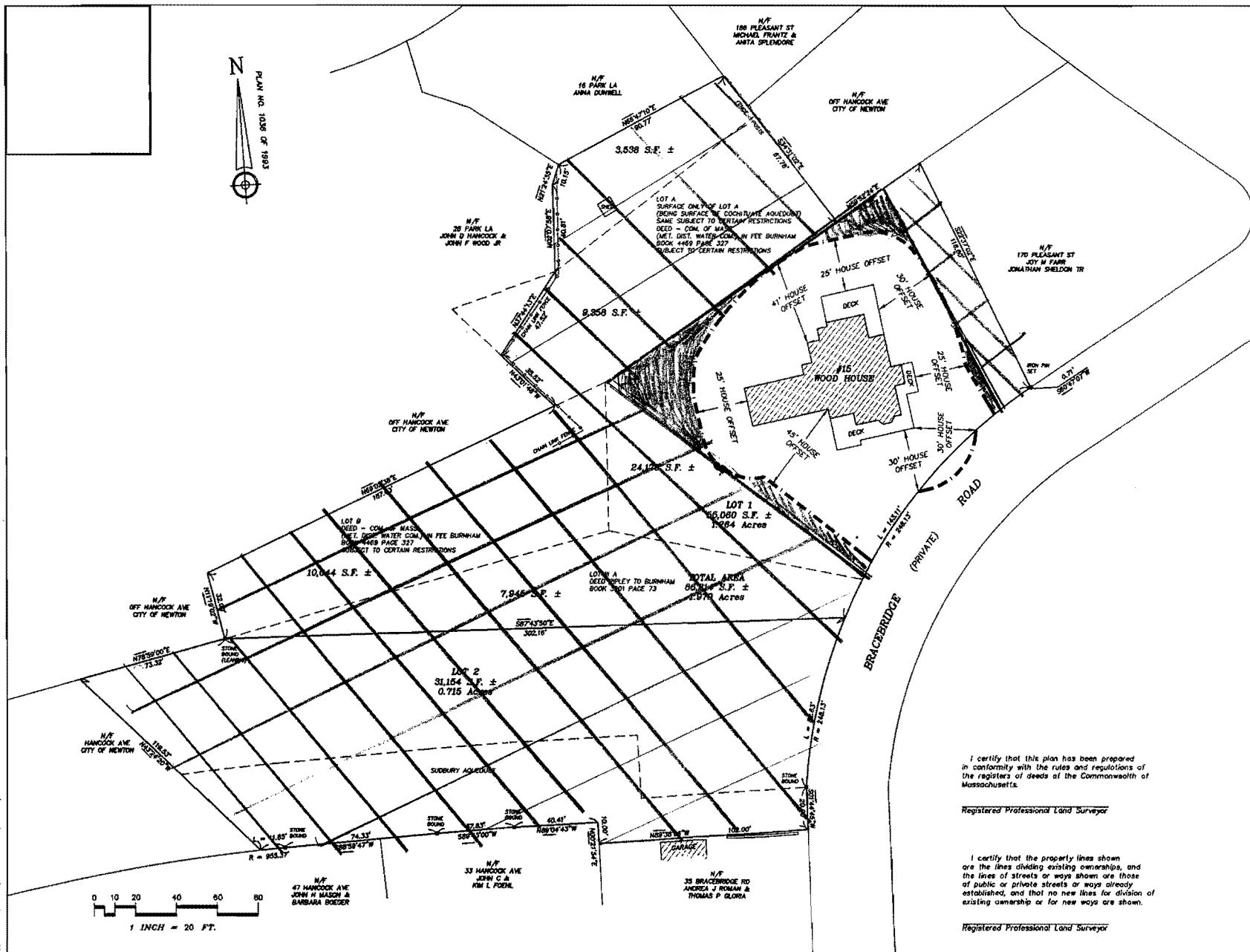
I certify that the property lines shown are the lines dividing existing ownerships and the lines of streets or ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

Registered Professional Land Surveyor

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Registered Professional Land Surveyor

SCALE: 1"=20'	DATE: 6/21/11
DRAWN BY: SLS	MATH: SLS23/31
JOB NUMBER: 3882	CHECKED BY:
COUNTY: MIDDLESEX	
TITLE:	

CONSERVATION RESTRICTION BOUNDARIES
15 BRACEBRIDGE ROAD
NEWTON, MASSACHUSETTS

3882B

Revisions		
No.	Date	Description

SHEET NUMBER:

COPYRIGHT 2007 R.E. Cameron & Associates, Inc.

CONSERVATION RESTRICTION

We, Richard D. Wilson and Andree Desiree Wilson, husband and wife, having an address at 15 Bracebridge Road, Newton Centre, MA, 02459, our successors and assigns ("Grantor(s)"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of Massachusetts General Laws grant with quitclaim covenants to Newton Conservators, Inc., a Massachusetts non-profit corporation c/o Jane Sender, _____, and its successors and permitted assigns ("Grantee") in perpetuity, and exclusively for conservation purposes, this Conservation Restriction, having the terms and conditions hereinafter set forth with respect to a portion of certain land known as 15 Bracebridge Road and located in the City of Newton, Middlesex County, Massachusetts, hereinafter referred to as the "Conservation Area." The total land contains approximately 1.979 acres; the "Conservation Area," which is covered by the Conservation Restriction, will contain approximately 1.649 acres, leaving only .330 acres of unrestricted area for the Grantor's residence. The Conservation Area is also being shown on a plan entitled "Conservation Restriction Plan 15 Bracebridge Road," drawn by R.E. Cameron & Associates, Inc., Land Surveyor, Norwood, MA., dated _____, 2011, attached hereto and made a part hereof (See Exhibit A) and also recorded in Middlesex County South Registry of Deeds, Book _____, Page _____.

Purpose

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Conservation area will be maintained in its current condition in perpetuity and for conservation purposes, predominantly in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values.

These values include the following:

1. Open Space Preservation: The protection of the Conservation Area will enhance the open space value of these lands. The City of Newton has a Recreation and Open Space Plan (hereinafter, "Open Space Plan,") which expired in 2007. The Committee is presently drafting a new plan, which will be substantially similar to that which preceded it. On September 11, 1986 and on December 8, 1992 in a Confirmatory Deed by the Grantors (Middlesex Registry of Deeds, Book 24038, page 586), 21,590 square feet were given to the City of Newton for conservation purposes. In the original Open Space Plan, this 21,590 square feet is referred to as the Wilson Conservation Land and is highlighted as part of the Open Space Plan. The Wilson Conservation Land is immediately adjacent to this subject Conservation Area and, jointly, the parcels would work to enhance the open space goals and naturally enlarge the present and very modest conservation area already in place, creating a more substantial visual buffer and working in furtherance of Newton's overall open space goals.

2. Scenic Protection: The Conservation Area, which is immediately adjacent to the Wilson Conservation Area, is a pristine enclave composed of open space, wooded area and a small valley. Restricting use of this area would enhance the natural and scenic features of the area and preserve scenic enjoyment of the general public.
3. Furtherance of Government Policy: This grant will support, by way of example to others, any plans the town has in place to protect open space, recreation, scenic landscape, and water resources by others.
4. Public Access Trails lie near the Conservation Area and would visually benefit from the preservation of the Conservation Area.

This Conservation Restriction is intended to be a charitable donation.

Terms

A. *Prohibited Uses*. Except as to reserved rights set forth in paragraph B below, Grantor will not perform nor allow others to perform the following acts or uses which are prohibited on, above, and below the Conservation Area:

1. Constructing, placing or allowing to remain any temporary or permanent building, structure, tennis court, landing strip, mobile home, swimming pool, golf facility, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, light or utility pole, satellite dish tower, conduit, line or any other temporary or permanent structure or facility on, above or under the Conservation Area; excepting sheds erected for the purpose of maintaining the Conservation Area and the Grantors' home.
2. The permanent, temporary, or illegal dumping of refuse, including the placing, filling, storing or dumping in the Conservation Area of any refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other like substances or materials whatsoever;
3. Mining, excavating, dredging or removing from the Conservation Area soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit;
4. Activities detrimental to scenic views;
5. Any conveyance, lease, easement or other transfer of any part or portion of the Conservation Area without making the transfer subject to this Conservation Restriction in the transfer documents;
6. Any other use of the Conservation Area or activity thereon which is inconsistent with the purposes of this Conservation Restriction and which would materially and significantly impair this Conservation Restriction.

B. *Reserved Rights.* The Grantor reserves the right for himself and his heirs and successors in interest to conduct or permit the following activities and uses on the Conservation Area, but only if such uses and activities do not materially impair the conservation values or purposes of this Conservation Restriction:

1. Maintaining and adding to the current trees, landscaping, grass, and plants.
2. Recreational Activities. Use of the Conservation Area for any passive recreational uses that do not materially alter the landscape.
3. Wildlife Habitat Improvement: Management of the Conservation Area for the benefit of wildlife (including without limitation the planting and cultivation of wildlife cover and food crops), and cutting, mowing, pruning, burning, and removal of vegetation to enhance and promote varied types of wildlife habitat consistent with sound wildlife and forestry management practices; and
4. Non-Native or Nuisance Species: The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality.
5. Composting: The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the premises, provided that such stockpiling and composting is in locations where the presence of such activities will not have a deleterious impact on the purposes (including scenic values) of this Conservation Restriction;
6. Utilities: Installation of underground utilities including septic systems so long as the area is restored to its former condition with plantings if necessary.
7. Signs: The erection, maintenance and replacement of signs with respect to hunting, trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Conservation Area, and the protected conservation values; and,
8. Excavation: The excavation and removal from the Conservation Area of soil, gravel or other mineral resource or natural deposit as may be incidental to the installation or maintenance or removal of underground tanks, septic systems, utilities and other underground structures or to the maintenance of good drainage, soil conservation practices or to other permissible use of the Conservation Area.

C. *Notice and Approval.* Any notices sent under this conservation restriction shall be sent to the parties at the addresses listed above. Any party may provide a new *address* by sending a notice containing the new address to the other parties. Whenever notice to or approval by Grantee is required hereunder, Grantor shall notify Grantee in writing not less than sixty 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 Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. The notice shall state that Grantee's failure to respond within sixty days shall constitute constructive approval of the request. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty days of receipt of Grantor's written request therefor. Failure of Grantee to respond in writing within such 60 days shall be deemed to constitute approval by such Grantee of the request as submitted. Grantee's approval shall not be unreasonably withheld, but a Grantee may withhold its approval if the proposed activity will materially impair the terms of this Conservation Restriction. Any written notice required or permitted hereunder shall be deemed delivered if sent by certified mail, return receipt requested, postage prepaid, to the parties at the addresses set forth at the beginning of this instrument or, with respect to assignees, to the address set forth in a recorded instrument transferring title to the Conservation Area or rights hereunder, or to such other addresses as the parties may designate in writing from time to time.

D. Release. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, conversion or taking by any public authority under power of eminent domain or other act of public authority, shall not be entitled to any portion of any such sale, exchange, conversion or taking; instead said portion shall be remitted to Grantor.

E. Access. The Conservation Restriction hereby conveyed does not grant to Grantee, to the public generally, or to any other person any right to enter upon the Conservation Area except that there is hereby granted to Grantee and its representatives the right to enter the Conservation Area at reasonable times, with reasonable notice and in a reasonable manner for the purpose of inspecting the conservation area to determine compliance herewith.

F. Legal Remedies of Grantee

1. Grantee may enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Conservation Area to its condition prior to such violation. Grantee's rights under this paragraph F shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantee. No forbearance by the Grantee to exercise its rights under this conservation restriction shall be deemed or construed to be a waiver and no waiver on one occasion shall obligate Grantee to grant an additional waiver. No waiver shall be valid unless it is written and signed by Grantee, except, as to constructive approvals provided for in paragraph C above. If the Grantee needs to resort to legal enforcement of this Conservation Restriction, and prevails in court, the Grantor will indemnify and pay the Grantee

its costs and reasonable attorneys fees and expenses incurred as a result of said legal action.

2. Notwithstanding the foregoing, for any dispute or claim arising out of or relating to the terms of the Conservation Restriction which cannot be resolved in good faith directly between the Grantor and Grantee, no action shall be filed or prosecuted in any court until the claim or dispute has first been submitted to a mediator, mutually selected by the parties hereto, for at least five hours of mediation. The cost and fees associated with the mediation services shall be shared equally by all parties. The mediator's determinations shall not be binding upon any party. If the mediation is not concluded within thirty days from the time that a dispute is presented to the grantor or grantees, then the party raising the dispute may file an action despite the failure to complete the mediation.

G. Acts Beyond Grantor's Control. Nothing contained in this Conservation Restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Conservation Area resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm and earth movement, acts of war whether declared or undeclared, acts of criminals or enemies of the United States, or actions taken in response thereto, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Area resulting from such causes.

H. Duration and Assignability. The burdens of this Conservation Restriction shall run with the Conservation Area land and shall be enforceable against Grantor and its successors and assigns in perpetuity. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction, should any such notices or instruments be deemed necessary. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request. The benefits of this Conservation Restriction shall be in gross and shall not be assignable by Grantee, except in the following instances from time to time: (i) as a condition of any assignment, Grantee requires that the terms of this Conservation Restriction continue to be carried out; and (ii) the assignee, at the time of assignment, qualifies under section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under section 32 of Chapter 184 of the General Laws as an eligible donee to receive this Conservation Restriction directly. Upon dissolution of the Grantee or its assigns, the Grantee or its assigns may assign its rights to any other non-profit organization which has as one of its principal purposes the advancement of the interests protected by this instrument. However, if the Grantee or its assigns should fail to assign its rights then by default this Conservation Restriction will go to the Newton Conservation Commission, if they choose to accept it. If the Newton Conservation Commission should fail to accept this restriction, then any citizen of Newton may petition the Superior Court to appoint an appropriate non-profit group to hold this Conservation Restriction. Such new holder will have rights of assignment as stated hereinbefore.

I. *Subsequent Transfers.* In the event of any conveyance or transfer approved under paragraph A.5, Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which Grantor conveys any interest in all or a portion of the Conservation Area including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least forty-five (45) days prior to the date of such transfer. Failure of Grantor to do so shall not impair the validity of such transfer or of this Conservation Restriction, and shall not limit the enforceability of this Conservation Restriction in any way.

J. *Termination of Rights and Obligations.* Notwithstanding anything to the contrary contained herein, and subject to the provisions of paragraph A.6, the rights and obligations under this Conservation Restriction of any party holding any interest in the Conservation Area shall terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself, if the transfer is in violation of this Conservation Restriction, shall survive the transfer.

K. *Estoppel Certificates.* Upon request by Grantor, Grantee shall, within fifteen (15) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Conservation Restriction, and which otherwise evidences the status of this Conservation Restriction as may be requested by Grantor.

L. *Representations of the Grantee.* Grantee represents that it is a private, charitable, non-profit conservation land trust or corporation, that it is a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986, that it is organized and operated for the purpose of serving and conserving natural resources, natural habitats and environmentally sensitive areas and for other charitable, scientific and educational purposes, and that it has both the necessary funds and the commitment to hold this Conservation Restriction exclusively for conservation purposes in perpetuity and to enforce its terms.

M. *Miscellaneous:*

1. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts
2. Severability. If any provision of this Conservation Restriction shall, to any extent, be held invalid, the remainder shall not be affected.
3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

4. Captions. 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 or interpretation.
5. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder shall take effect when all requisite signatures pursuant to section 32 of chapter 184 of the General Laws have been obtained and this document has been recorded in the Middlesex South Registry of Deeds.
6. No Pre-Existing Public Right. Approval of this Conservation Restriction pursuant to M.G.L. ch. 184, Section 32, by any municipal officials and by the Secretary of Energy and Environmental Affairs 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 Conservation Area.

WITNESS my hand and seal this _____ day of ___, 2011.

RICHARD D. WILSON

ANDREE DESIREE WILSON

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

_____, 2011

Then personally appeared the above named Richard and Andree Desiree Wilson, who proved to me through satisfactory evidence of identification, which was

_____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that s/he signed it voluntarily for its stated purpose. _____

Notary Public

My commission expires: _____

ACCEPTANCE OF GRANT

The above Conservation Restriction was accepted by _____, this ____ day of _____, 2011.

By: Newton Conservators, Inc.

By: _____

Title: _____

Its: _____, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss _____, 2011

Then personally appeared the above named _____, who proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that s/he signed it voluntarily for its stated purpose. _____

Notary Public

My commission expires: _____

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

The undersigned, Secretary of Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Newton Conservators has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: _____, 2011

Richard K. Sullivan, Jr.
Secretary of Energy and Environmental Affairs

EXHIBIT A

(PLAN)

EXECUTIVE OFFICE OF ENERGY and ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES
100 Cambridge St., 9th fl.
Boston, MA 02114-2150
(617) 626-1011

For agency use only
DATE: _____
MUNICIPALITY (list all): _____
NUMERIC ASSIGNMENT(S): ____/____

CONSERVATION RESTRICTION APPLICATION FORM

Pursuant to the provisions of M.G.L .ch. 184. §32. the Executive Secretary of Energy and Environmental Affairs is hereby requested to approve a perpetual conservation restriction as described below:

A. GENERAL INFORMATION (please indicate contact person for CR review)

1. GRANTOR(S) (must list all owners)

Richard D. Wilson and Andree Desiree Wilson
15 Bracebridge Road, Newton Centre, MA 02459
Telephone: 617-332-4823
Fax: 617-495-0416

2. GRANTEE(S): **Newton Conservators, Inc.**
c/o Jane Sender

3. ARE THERE ONE OR MORE MORTGAGES ON THE PROPERTY? Yes No
(Assent of mortgagee(s) is required and must be recorded with the restriction.)

4. IS THE RESTRICTION IN MORE THAN ONE MUNICIPALITY? Yes No

5. TYPE OF RESTRICTION: a. Conservation Only:
b. Joint Restriction:

Type: _____
(agricultural, historical, watershed)

6. STATE OR FEDERAL FUNDS INVOLVED Yes No
 CPA (attach attested copy of town meeting vote(s) as an exhibit)
 Grant (type) (attach as an exhibit)
 Other (attach)
 Is there a deadline for completing restriction (reason)? _____ 20__

NOTE: (A full package must be submitted for CR review, even if all or some of the materials were submitted as part of the grant process, as the grant programs are separate)

7. PUBLIC OFFICIALS: State Representative(s) **Ruth Balser**

State Senator(s) **Cynthia Creem**

Other involved Official(s) **Newton Conservation Commission**

NOTES:

If the grantee is a non-profit charitable corporation or trust, DCS may require proof that it is a qualified charitable organization in accordance with M.G.L. c.180 §4(a) or (l) and the I.R.S. Code Section 501(c) (3) that qualifies as a M.G.L. c.184 §32 holder, and reserves the right to review the organization's by-laws and list of officers.

Regardless of whether the grantee is a qualified private non-profit organization or a city or town or commission, authority, or other instrumentality thereof, the local conservation commission must define the reasons for preserving the property and certify that the restriction is in the public interest (please refer to page 6).

A conservation restriction is a voluntary limitation on the use of land designed to preserve it from adverse future change. But it should be distinguished at the outset from an agricultural preservation restriction which is approved by the Commissioner of Food and Agriculture for the Commonwealth, 251 Causeway Street, Boston, MA 02114-2150, and from an historical preservation restriction, which is approved by the Massachusetts Historical Commission 80 Boylston Street, Rm. 310, Boston, MA 02116, and from a state watershed preservation restriction which is approved by the Commissioner of the Department of Conservation and Recreation, 251 Causeway St., Boston, MA 02114-2150.

It is possible for a restriction to fit into more than one category, requiring more than one approval. If this is a joint restriction, has the approval process been started with the joint holder, including the Commissioners of Food and Agriculture, DCR, the Massachusetts Historical Commission, etc.? Yes No

8. GRANTOR'S INTENT

- a. Charitable contribution: Yes No
Do you intend to claim an IRS income tax deduction? Yes No
- b. Granted or required as part of municipal or state permitting process? Yes No
1. Is this restriction required by a M.G.L. C.40A §9 special permit? Yes No
(Please attach a copy of the permit(s) as an exhibit)
2. Required by M.G.L. C.131, §40 Wetlands Order of Conditions? Yes No
(Please attach a copy of the Order of Conditions)
3. Other? Yes No (please explain)

c.. Other: Please explain (for example, sale of a C.R. to a public agency):

d. Is this a perpetual restriction? Yes No If less than permanent, for how many years: _____
(It is the policy of DCS not to approve less than permanent restrictions except in exceptional circumstances. Please discuss the restriction with DCS before submitting a non-permanent CR)

B. PUBLIC BENEFIT

1. Is the restriction for the preservation of land areas for outdoor recreation by, or the education of, the general public (will there be public access)? Yes** No
**** The restriction is for the preservation of land areas for outdoor recreation and observation; however, it will not be accessible to the public****
2. Is the restriction for the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems? Yes No
3. Is the restriction for the preservation of open space (including farmland and forest land) where such preservation is:
- a. pursuant to a clearly delineated federal, state, local governmental policy, and will yield a significant public benefit? Yes** No
**** The City of Newton Open Space Policy encourages these private restrictions. The area within the conservation restriction represents a natural continuance and extension of lands already delineated as conservation and protected by local governmental policy****

- b. for the scenic enjoyment of the general public and will yield a significant public benefit?
 Yes No
4. Is the property historically significant or meets National Register Criteria or is within a registered historic district or contributes to the integrity of an historic building or property? Yes No
5. Other public benefit? Yes No (if yes, please explain)

****The conservation restriction serves to benefit the public through open space preservation, in accordance with the City of Newton Recreation and Open Space Plan; through scenic protection; and, by way of example, serves to protect other and additional open space, recreation, scenic landscape and water resources. Those conservation and public access trails, which run along the premises would also greatly benefit from the preservation of the Conservation area for visual enhancement reasons and for reasons associated with more providing a greater buffer from more urban distractions.****

NOTES:

The Secretary will find sufficient evidence of the "public interest," if the applicant can show that the restriction meets any of the tests for deductibility under the Internal Revenue Service Code Section 170(h) and the Regulations promulgated thereunder, or a private letter ruling by the Internal Revenue Service shall be deemed sufficient for establishing such deductibility, or the applicant makes an independent showing of eligibility for deductibility. The letter ruling or documentation demonstrating eligibility for deductibility should be attached along with this application.

Regardless of the intent of the grantor's gift, the Secretary's determination of public interest will be dependent upon how well the applicant demonstrates public interest; however, grantors should be advised that the Secretary reserves the right to require modifications to the conservation restriction where in his/her opinion the retained rights adversely impact the public interest or natural resource values of the property or when the document is improperly drafted.

C. SITE DATA

1. Location:
 1. Municipality: **Newton** Location: **15 Bracebridge Road, Newton Centre**
 2. Grantor's Registry of Deeds Bk. # **26978** Page # **183**
 3. Assessors Map # **089NW** Property SBL # **64016 0014A** Property Tax Bill #: **2226927**
 4. New Site?: _____ Addition to existing restricted area: _____ (please specify)
2. Zoning: Commercial Industrial Residential (check all that apply)
3. Title: Does applicant have clear title? Yes No
 If no, please explain:

4. Encumbrances: Is the property encumbered by any easement(s)? Yes No
 Is the property encumbered by any mortgages(s)? Yes No
 Please explain and attach copy of easement, mortgage subordination, etc.:

5. Geographic Information (if restriction is located in 2 municipalities, fill out separate page for each):
1. Total acres: **1.979 acres** Acres covered by restriction: **1.649 acres** Total unrestricted areas: **.330 acres**
2. Cover: acres in A. Upland Forest: **N/A** B. Open (field, pasture, etc.) **N/A**
 C. Vegetated Wetland: **N/A** D. Water: **N/A** E. Other: **N/A**
3. Topography: acres in A. Flat: **1.200** B. Hilly: **.779**

C. Rolling: N/A D. Mountains: N/A

4. Water front: feet on A. Ocean: N/A B. River: N/A
C. Stream: N/A D. Lake: N/A

Please identify waterbody: N/A

6. General information:

Are there any improvements existing on the property, or to be permitted after execution of the C.R.? Yes No If yes, please describe in detail:

SHED?

7. Is the property currently under any of the preferential real estate tax assessment programs?

Yes No If yes, which one: c.61 c.61A c. 61B

NOTE:

If the restriction lies in more than one community, separate Site Data forms, Selectmen and Conservation Commission approvals must be completed for that portion of the restriction within each community

8. If the property is under agricultural use, is the soil considered prime or of statewide agricultural significance?

N/A

9. Is the property adjacent to any public or quasi-public land or buildings? Yes No

Describe briefly:

**** Yes. In a Confirmatory Deed by the Grantors (Middlesex Registry of Deeds, Book 24038, page 586) 21,590 square feet were given to the City of Newton for conservation purposes. This land also adjoins the so-called Cochituate and Sudbury Aqueducts which are currently used as public walking trails.****

10. Does the property lie within an historic district, include an archaeological or rare species site, fall within a Department of Conservation and Recreation designated scenic landscape, river, or within an Executive Office of Energy and Environmental Affairs designated Area of Critical Environmental Concern, a Zone II of a public water supply etc.? Please explain:

No.

11. Will public access be allowed? Yes No If yes, explain any limitations, type, etc.:

****Direct public access will not be permitted. The restricted land is immediately adjacent to a residence. However, there will be great benefit to the public given their access and use of immediately adjacent conservation lands and trails. The addition of this additional conservation restriction, would serve to enhance that visual buffer, less another home be erected in its stead.****

Prepared by: William H. Shaevel
Address: Shaevel & Krems, LLP
141 Tremont Street, Boston, MA 02155
(p) 617-556-0244 (f) 617-556-0284

ATTACHMENTS:

- | | | | |
|----|---|----------------------------------|-----------------------------|
| a. | Draft Conservation Restriction (required) | X Yes | <input type="checkbox"/> No |
| b. | USGS Topographic map with conservation restriction outlined and identified thereon (required) | X Yes | <input type="checkbox"/> No |
| c. | Survey, plotmap, or sketch plan (required) | X Yes | <input type="checkbox"/> No |
| d. | Natural resource inventory, (if available) | <input type="checkbox"/> Yes | X No |
| e. | Wetlands Order of Conditions C.131.§40, (if applicable) | <input type="checkbox"/> Yes | X No |
| f. | Zoning, C. 40A, §9 Special Permit, etc. (if applicable) | <input type="checkbox"/> Yes | X No |
| g. | I.R.S. letter ruling, (if applicable & not previously provided) | <input type="checkbox"/> Yes | X No |
| h. | Charitable status documentation,(if applicable & not previously provided) | X Yes | <input type="checkbox"/> No |
| i. | Assent of mortgagee(s) (if applicable) | N/A <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| j. | USDA Soil Data, (if applicable) | N/A <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| k. | Other (please specify) (court orders, settlement agreements, votes, grant agreement, contracts, etc.) | <input type="checkbox"/> Yes | X No |

NOTES:

The applicant is highly advised to follow the Model Conservation Restriction and submit a draft of the conservation restriction for a determination as to whether it is acceptable for approval by the Secretary. All required attachments must be submitted for review.

The final conservation restriction must be prepared in a form suitable for recording and be approved and signed by the grantor, grantee, and municipal official(s), have all final Exhibits attached, and a subordination, if applicable, to be recorded prior to the conservation restriction.

Please check your local Registry of Deeds for their requirements, particularly as to first page spacing.

MUNICIPAL CERTIFICATION

(We) the undersigned Conservation Commission of _____ (the certifier/holder) hereby certify that the proposed conservation restriction is in the public interest in that it (describe public benefit):

Date: _____

Signed:

NOTES:

This certification by the conservation commission may be submitted separately from the application and filed with the submission of the executed conservation restriction, it being recognized that the applicant may want to submit the application with a draft copy of the conservation restriction for review prior to actual submission of the executed document.

Conservation restriction lands which overlap municipal boundaries must be approved and certified by the appropriate officials of both municipalities.

The commissioners' certification should state why the property is significant and why the conservation restriction is important.

APPENDIX C

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES
100 Cambridge Street, 9th Floor
Boston, MA 02114
(617) 626-1011

DATE: _____
MUNICIPALITY: _____
NUMERIC ASSIGNMENT: _____

CONSERVATION RESTRICTION FIELD INSPECTION

1. MUNICIPALITY: _____ LOCATION (street,road,etc): _____

2. GRANTOR: _____ GRANTEE: _____

3. NEW SITE: _____ ADDITION TO SITE: _____ TOTAL ACRES: _____ TERM: _____

4. ARE BUILDINGS INCLUDED? YES NO
If yes, estimate value, condition, and existing or proposed use. (include photographs and negatives)

5. PRESENT AND PAST USE OF SUBJECT PROPERTY AND ADJACENT LANDS:
(please include USGS topographical maps showing subject and adjacent public lands, if any)

6. BRIEF DESCRIPTION OF PROPERTY INCLUDING NATURAL RESOURCES AND ANY UNIQUE FEATURES:

a. Are prohibited activities sufficient to protect the resource values? Yes No
b. Are retained uses compatible with the preservation or protection of the natural resources?
 Yes No (if answers to 6a or 6b are no, please explain in 8 below)

7. ARE PUBLIC ACTIVITIES PERMITTED? Yes No
If yes, please explain NATURE and SCOPE: _____

8. COMMENTS AND RECOMMENDATIONS: _____

INSPECTOR _____ DATE: _____
ACCOMPANIED BY: _____

APPENDIX D

PLANS, POLICIES, PROGRAMS, AND LANDS HELPFUL IN DEMONSTRATING STATE AND LOCAL PUBLIC BENEFIT

1. Municipal Open Space and Recreation Plans
2. Regional Open Space Plans (Regional Planning Authorities)
3. Statewide Comprehensive Outdoor Recreation Plan
 - * State Trail System
 - * Scenic Rivers Program
 - * Unique Geological Inventory
 - * Bay Circuit Program
4. Massachusetts Natural Heritage Inventory of Rare and Endangered Botanical and Zoological Species Habitat and National Endangered Species Act
5. Areas of Critical Environmental Concern - designated areas
6. Coastal Zone Management Plan - Significant Resource Areas
 - * Barrier Beaches
 - * Primary Dunes
 - * Sandy Beaches
 - * Saltwater Marshes
 - * Shellfish Beds
 - * Salt Ponds
 - * Estuaries
 - * Coastal Embayments
 - * Anadromous Fish Runs
 - * Erosion Areas
 - * Designated Ports
 - * Accretion Areas
 - * View Points
 - * Historic Sites (also on Massachusetts Historical Commission inventory)
 - * Recreational Beaches
 - * Boat Ramps, Marinas
7. Massachusetts Historical Commission
 - * Massachusetts Historical Sites
 - * National Historic Register Sites (P.L. 89-665), eligible for inclusion
 - * Known Cultural and Archeological Sites
8. Scenic roads, Chapter 40, §15C
9. Scenic Mountains, Chapter 131, §39A
10. Historic Districts
11. Flood Disaster Protection Act of 1973, land within flood lines. See also P.L. 566 Small Watershed Projects.
12. USDA Soil Conservation Service (SCS) - various inventories of potential reservoir sites
13. Massachusetts Water Resources Commission - inventory of regionally important wetlands, (identified in Massachusetts Water Supply Statement May 2, 1978, 353 pp.)
14. National Natural Landmarks (i.e. Gay Head Cliffs, Lynnfield Marsh)
15. Town well-fields (existing and proven reserves and reservoirs)
16. Agricultural land - SCS identified prime, Massachusetts unique
17. Wetlands Restrictions Program

- * Chapter 131, §40
- * Chapter 130, §105
- * Restricted areas and areas to be restricted

18. Executive Orders
 - * #181 Barrier Beaches
 - * #193 Agricultural lands
19. Department of Environmental Protection Great Pond Inventory
20. Department of Environmental Management Scenic Landscape Inventory, 1982
21. Department of Environmental Protection Water Quality Plans or Programs, various
22. Buffers to water bodies, other protected lands, ACECs, critical habitat, parks, etc.
23. Greenways, trails, and wildlife corridor connections
24. Public access for passive recreation

APPENDIX E

Recommendations to Increase the Reliability of Grantees as Conservation Restriction Managers¹

1. Conservation Restriction programs should have written criteria for what constitutes a satisfactory restriction.
2. Background data assembled should be adequate to support proper monitoring and legal enforcement action.
3. Organizations and agencies holding conservation restrictions should make every reasonable effort to ensure that they will have a reliable source of funds for monitoring and enforcement actions, including court cases.
4. Properties protected by conservation restrictions should be checked at least annually.
5. Careful records should be kept of inspections and of all contacts with landowners.
6. Monitoring programs should be designed and managed so that violations will be detected early before elimination of the violation becomes a practical impossibility.
7. Organizations and agencies holding conservation restrictions should keep track of changes in ownership of restriction - protected properties.
8. Organizations and agencies holding conservation restrictions should frequently remind landowners about the terms of conservation restrictions, especially after a property changes hands.
9. Organizations and agencies holding conservation restrictions should establish careful procedures for reviewing possible amendments to ensure that any permitted amendment does not impair the conservation values of the restriction.
10. In the case of donated conservation restrictions for which tax deductions have been taken, donees should seek competent appraisal advice to satisfy themselves that a permitted amendment will not add value to the property.
11. Organizations and agencies holding restrictions should maintain careful written records of all discussions and correspondence relating to an amendment in case of questions later.
12. Termination should be viewed as an absolute last resort and only done after exhaustive consideration has demonstrated overriding public need for the termination.
13. In any situation where the primary grantee's long term commitment and/or financial resources for monitoring and enforcement are open to reasonable question, the landowner and primary grantee should make every reasonable effort to find a suitable back-up grantee.

¹ Land Trust Ex

(Appendix F)
Executive Office of Energy and Environmental Affairs / Division of Conservation Services
GIS Data Entry Form

Local Acquisitions for Natural Diversity (LAND) (formerly Selp-Help), Parkland Acquisitions and Renovations for Communities (PARC) (formerly Urban Self-Help), SURF, Land & Water Conservation Fund Projects and Conservation Restrictions

1. Contact Person: _____

(telephone) _____

2. Project Type (select one):

- LAND
 PARC
 SURF
 Land & Water Conservation Fund
 Other _____

3. Municipality(ies): _____ Project Number _____

4. a. Fee Owner: _____
(holder of the Deed)

b. Manager (if different from Owner): _____

5. *Conservation Restriction held by: _____

*Complete only if land is encumbered by a Chapter 184 section 31-33 Conservation Restriction.

Check the box corresponding to how the restriction was obtained:

- Gifted Purchased Exacted by Regulation or given as part of permit process

Number of reserved lots within the restriction, if any: _____

6. Assessor's Information _____
(map) _____ (Block) _____ (lot) _____

7. Registry Information _____
(name) _____
(book) _____ (page) _____ (plan) _____ (page) _____

8. Acreage: _____

9. Primary Use: (select one)

Public Access:

- Conservation
 Recreation
 Both Conservation and Recreation
 Water Supply Protection
 Agriculture
 Historic/Cultural
 Other (please explain)

- Public
 Public, limited (explain) _____
 Public, seasonal
 None
 Other (please explain) _____

The applicant must provide to the Executive Office of Energy & Environmental Affairs materials that will allow MassGIS to accurately represent the site in the state's open space data layer. These materials include:

1. A USGS topological map or copy (including the name & date of the quad) with the site accurately drawn on it.
2. A copy of the site plan and/or a survey plan if available (required for exacted conservation restrictions).
3. A printout of the digital representation of the site on a USGS topological map background and a note indicating that the digital representation of the site has been emailed to Dominique.pahlavan@state.ma.us in appropriate format (Massachusetts State Plane Meters NAD1983 Datum) with a subject line of: <town> <Project Type> <Project#> (e.g. Boston CR #12).

MassGIS will attempt to add the site to the open space data layer using these materials but may request additional material from the grantee if the materials provided are not at an appropriate scale or are not sufficiently clear to support conversion to digital data that conform to MassGIS data standards. Topographical maps can be purchased at book stores or printed from

<http://www.mass.gov/mgis/mapping.htm>. Please call Dominique Pahlavan at MassGIS, 617.626.1184, with any questions or for assistance with this form.



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

September 26, 2011

Ashley F. Walter, Esq.
Shaevel & Krems, LLP
141 Tremont Street, 3rd Floor
Boston, Massachusetts 02111

RE: Conservation Commission certification of Conservation Restriction

Dear Ms. Ashley, Esq.;

Enclosed is the conservation commission certification of the proposed conservation restriction as a public benefit to the City of Newton. I understand time is of the essence in this matter, and am happy to help in any way that I can.

Very truly yours,

For the Commission

Anne Phelps
Sr. Environmental Planner

Enclosure

CC: Donnalyn Kahn, City Solicitor

Conserva\conservarea\Wilson CR

Conservation Commission
1000 Commonwealth Avenue, Newton, Massachusetts 02459
Email: aphelps@newtonma.gov

Preserving the Past  Planning for the Future

MUNICIPAL CERTIFICATION

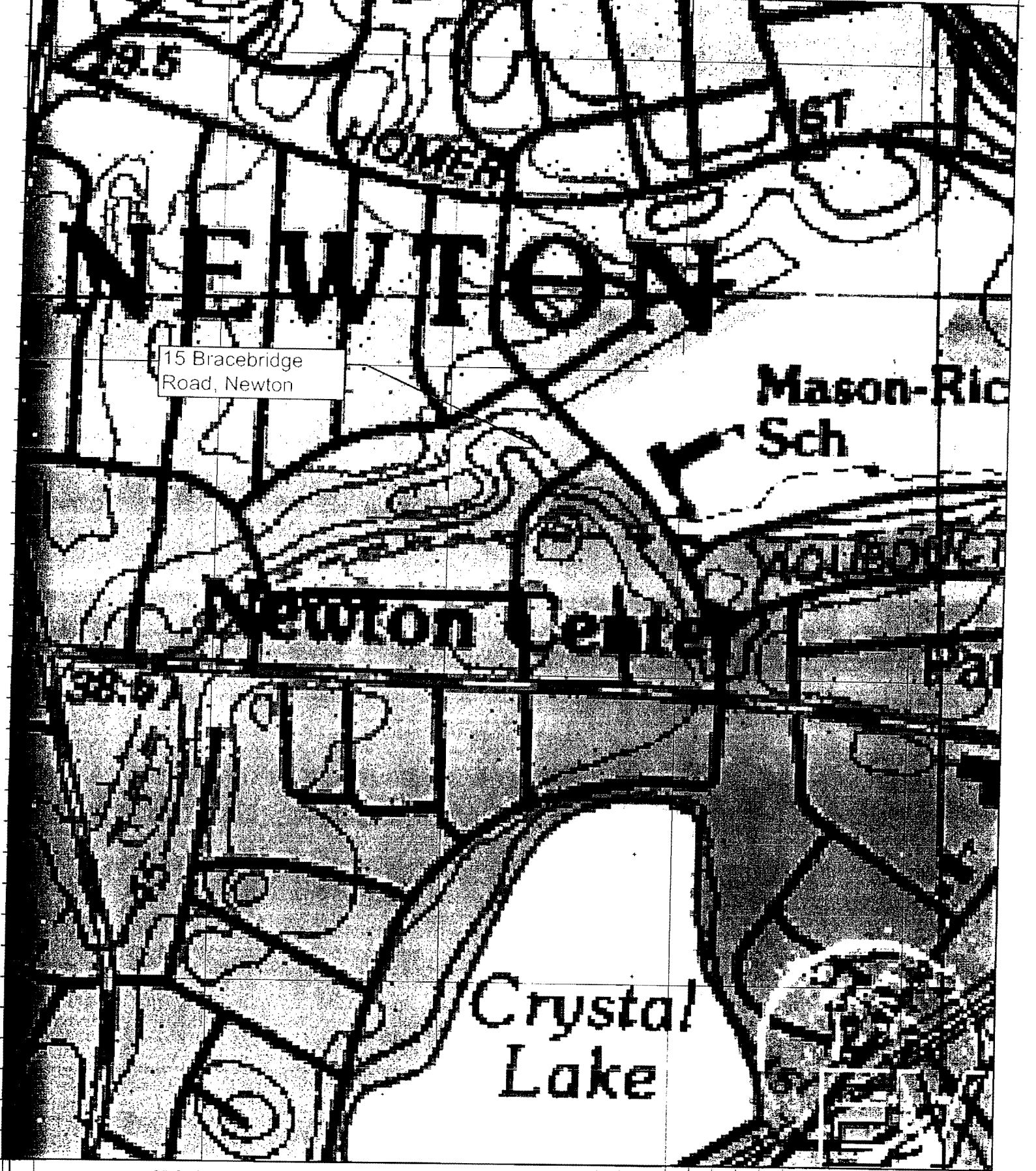
(We) the undersigned Conservation Commission of City of Newton (the certifier/holder) hereby certify that the proposed conservation restriction is in the public interest in that it (describe public benefit):

The members of the conservation
commission agree that the offered conservation
restriction provides a public benefit in the
form of open space preservation and connectivity
for wildlife benefit, particularly as it is adjacent to
existing conservation land and the Cookituate and
Sudbury Aqueducts, which provide walking trails
in some areas.

Date: 9/22/11 Signed: _____

[Signature]
Judith K. Hepler
Bud Bellamy
[Signature]
[Signature]

NOTES:
This certification by the conservation commission may be submitted separately from the application and filed with the submission of the executed conservation restriction, it being recognized that the applicant may want to submit the application with a draft copy of the conservation restriction for review prior to actual submission of the executed document.
Conservation restriction lands which overlap municipal boundaries must be approved and certified by the appropriate officials of both municipalities.
The commissioners' certification should state why the property is significant and why the conservation restriction is important.



15 Bracebridge Road, Newton

Mason-Richard School

Newton Centre

Crystal Lake

071° 12' 20.08" 071° 12' 10.08" 071° 12' 0.08" 071° 11' 50.08"

Name: BOSTON SOUTH
Date: 9/1/111
Scale: 1 inch equals 400 feet

Location: 042° 19' 53.1" N 071° 12' 07.1" W
Caption: 15 Bracebridge Road
Newton Massachusetts

City of Newton



Setti D. Warren
Mayor

ELECTION COMMISSION


1000 COMMONWEALTH AVENUE
NEWTON CENTRE 02459-1449

Craig A.J. Manseau
Executive Secretary

Kenneth R. Hartford, Chair
Fay G. Cohen, Richard A. Lipof, John P. McDermott

MEMORANDUM

TO: David Olson, City Clerk

FROM: Craig A.J. Manseau, Executive Secretary 

DATE: August 18, 2011

SUBJECT: Group Petition

TT AUG 18 P 4:08
CITY CLERK
NEWTON, MA 02459

In accordance to Newton Charter, Sec. 10-2, a group petition must be signed by at least fifty voters. The citizen petition you presented to the Election Commission office on Thursday, August 18, 2011 has seven (7) qualified voter signatures. On Thursday, August 11, 2011 forty-four (44) qualified voter signatures were certified for this petition which Totals 51.

This group petition has met the requirement in accordance with the Newton Charter, Sec. 10-2. Should you have any questions or require any additional information concerning this matter, please do not hesitate to contact me.



Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

We, the undersigned petitioners, appeal amended zoning laws to be implemented October 2011 in accordance with Ordances Z-77. We request a special meeting between the City of Newton Aldermen who voted on this ordinance and those identified in this partition. This appeal is predicated on the fact that the amended laws do not accomplish that which they intended: providing smaller homes/lots greater square footage to build on their land. In addition, we believe that the Aldermen who voted on this ordinance were inadequately informed and as a result cannot possibly comprehend the variables involved in the amendment, and the unintended negative impacts of this ordinance. We further request that these changes defined in Ordinance No. Z-77, not be implemented until we have met with the Aldermen.

17 AUG 11 10 34
CITY CLERK
NEWTON, MA 02459

No.	Name	Address	Phone	Email
N1	Marijean msy	41 Audubon Drive		marijeanmsy@gmail.com
✓2	Tina Anchetta	36 Athelstane Rd		tinanc@comcast.net
✓3	Edward Lee	159 Florence St.		lee@raytheon.com
4v	Mabel Egan	62 Theodore Rd		chanegan@verizon.net
✓5	DAVE ANCHETA	36 ATHELSTANE RD		CHEESE34@comcast.net
✓6	Barin Chue	34 Athelstane Rd		Kcuball@gmail.com
✓7	Laura Chan	82 Taffa Ave.		chanl@ebnhc.org
✓8	Kenneth wang	143-145 Cabot St.		wang@acomquotes.com
✓9	Sue Goldstein	16 Hartman Rd.		liviesmune.comcast.net
✓10	Albert Yee	5 Fairway Dr.		ayee@yopmail.com
N11	Ben Chin	59-61 Saint James Circle		ben.chin@state.ma.us
✓12	Paul Ho	1801 Washington St.		paulhyho@gmail.com
✓13	Sunny Cheng	26 Harwich St.		sunny.chen@fmr.com
14				
15				

16 ~~(10)~~ (11)

Total Certified Signatures (44)

Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

We, the undersigned petitioners, appeal amended zoning laws to be implemented October 2011 in accordance with Ordnances Z-77. We request a special meeting between the City of Newton Aldermen who voted on this ordinance and those identified in this partition. This appeal is predicated on the fact that the amended laws do not accomplish that which they intended: providing smaller homes/lots greater square footage to build on their land. In addition, we believe that the Aldermen who voted on this ordinance were inadequately informed and as a result cannot possibly comprehend the variables involved in the amendment, and the unintended negative impacts of this ordinance. We further request that these changes defined in Ordinance No. Z-77, not be implemented until we have met with the Aldermen.

77 AUG 11 A 9 34

No.	Name	Address	Phone	
√1	MELVYN SWALTER	84 OLD FARM RD	617-965-2537	hanningtoninc.com
√2	Eunice Feller	64 Harvard St		eunice@breadnchocolate.com
√3	John Bortone	19 Sutcliffe PK	617-584-6266	
√4	Muriel Hackel	29 Westgate Rd, Newton	617-939-3133	
√5	ALAN HACKEL	29 WESTGATE RD NEWTON	617-332-6845	
√6	MIGUEL RINGVOLD	275 HARTMAN RD	617-835-3961	
√7	Jeff Chen	290 HARTMAN ROAD	617-527-8489	jchen62@gmail.com
√8	William J. Lanciloti, Jr	45 Whittemore Rd	617-571-5509	
√9	Elaine Kamowitz	11 Jacobs Terrace	617-244-7287	
√10	Harriet Kamowitz	11 Jacobs Terrace	617-244-7287	
√11	Christopher Ulan	33 Bontempo Rd.	617-448-9085	
√12	Rimmer Linkov	22 Sycamore Rd	617-650-2387	
√13	Alex Smolyar	46 Westgate Rd	617-969-1495	
√14	GEORGE SAHINIDIS	581 Saw Mill Brook Parkway	617-467-5260	
√15	Marcela Sahinidis	581 Saw Mill Brook Parkway	617-467-5260	
√16	Galit Grudman	66 Esty Farm Rd.	617-965-0374	

CITY CLERK
NEWTON, MA 02459

Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

We, the undersigned petitioners, appeal amended zoning laws to be implemented October 2011 in accordance with Ordnances Z-77. We request a special meeting between the City of Newton Aldermen who voted on this ordinance and those identified in this partition. This appeal is predicated on the fact that the amended laws do not accomplish that which they intended: providing smaller homes/lots greater square footage to build on their land. In addition, we believe that the Aldermen who voted on this ordinance were inadequately informed and as a result cannot possibly comprehend the variables involved in the amendment, and the unintended negative impacts of this ordinance. We further request that these changes defined in Ordinance No. Z-77, not be implemented until we have met with the Aldermen.

11 AUG 11 A 9 30
CITY CLERK
NEWTON, MA 02459

No.	Name	Address	Phone	EMail
-----	------	---------	-------	-------

- | | | | | |
|----------------|-------------|---------------------|--|-------------------------|
| N ₁ | Marilyn Yee | 290 Hartman Rd. | | myeechi@hotmail. |
| ✓ ₂ | Stephen Yee | 30 Marlin Lane | | stephensyee04@yahoo.com |
| N ₃ | Susan Yee | 30 Marlin Lane | | Susanwee@yahoo.com |
| ✓ ₄ | Lisa Wong | 9-11 Dalby RD | | LWong2@statestreet.com |
| ✓ ₅ | Fred Chin | 67 Meadowbrook Road | | |
| ✓ ₆ | Calvin Chin | 40 Stanley Road, | | ctc2021@aol.com |
| N ₇ | Irma Shear | 12 Drustin Rd. | | ishear@yahoo.com |

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16

2011 AUG 11 A 9 40
CITY CLERK
NEWTON, MA 02459

(H)

Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

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11 AUG 11 A 9 34

No.	Name	Address	Phone	Email
1	Shapiro Marcia	72 Esty Farm Road	617-969-7033	
2	Maurice Mann	72 Esty Farm Road	617-969-7033	
3	Heena Rupani	75 Esty Farm Road	617-969-5842	
4	Gami Utano	33 Bontempo Road	617-467-4767	
5	Yura Utano	22 Tanglewood Road	617-448-6456	
6	Yu Song Kwan	27 Faxon Street	617-527-1416	
7	Walter Kuenmerle	45 Village Circle	617-223-7657	
8	Viktor Sergeev	25 Van Wart Path	617-964-3508	
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2011 AUG 11 A 9 40

NEWTON MASS

Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

We, the undersigned petitioners, appeal amended zoning laws to be implemented October 2011 in accordance with Ordinance Z-77. We request a special meeting between the City of Newton Aldermen who voted on this ordinance and those identified in this petition. This appeal is predicated on the fact that the amended laws do not accomplish that which they intended: providing smaller homes/lots greater square footage to build on their land. In addition, we believe that the Aldermen who voted on this ordinance were inadequately informed and as a result cannot possibly comprehend the variables involved in the amendment, and the unintended negative impacts of this ordinance. We further request that these changes defined in Ordinance Z-77 not be implemented until we have met with the Aldermen.

NOV 17 11 A 9 34
CITY CLERK
NEWTON MA 02459

No.	Name	Address	Phone	Email
N ₁	David Tilman	6 Tirrell Crescent	(617)642-6000	davidthilman@gmail.com
N ₂	Mikhail Shuayder	69 Pond Brook Rd	(617)5588026	
√ ₃	Alex Shuayder	31 Starz Way	(617)5273988	
√ ₄	HARVEY PARAD	36 TIRRELL CRES	617 244-3450	
N ₅	Shuki Sasson	31 Tirrell Cross	617 916 2808	gur.monster@gmail
√ ₆	THOMAS GROOME	20 TIRRELL CRESS	617 243 3039	GROOME@BC.EDU
N ₇	Melania Vozdov	77 Winslow Rd.	617-965-5937	
√ ₈	Alexey Lyubov	22 Colby St	617 909 1100	
√ ₉	Sumner Hoberman	81 Wayne Rd.	617-527-2272	
N ₁₀	Eugene Litvak	15 Cotney Rd	(617)969-4746	elitvak@verizon.net
√ ₁₁	Adam Zewel	17 Tirrell Crescent	617 795-5900	
√ ₁₂	Leva Berman	37 Dorcas Rd.	617.277.7887	bermanlaw@usa.net
√ ₁₃	Harold Buz	3 St. Dunstons	617 905 9146	
√ ₁₄	Mark Berkowitz	71 Redwood Rd	617 965-9646	
S ₁₅		12 Bon tempo Rd	617 964-1232	
√ ₁₆	Kimberly Jr	615 Savonill Brook Pkwy	617-680-2836	

Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

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No.	Name	Address	Phone	Email
N1	GARY VORONOV	112 CYNTHIA Rd NEWTON, MA 02459	(617) 818 0803	
N2	ZHANNA VORONOV	15 DEBORAH Rd. NEWTON, MA 02459	(617) 965-5937	
✓ N3	ANNA ALTSHUL	677 Winchester St. #412, Newton, MA 02459		
N4	VADIM KAGAN	99 Needham St 1402, Newton, Ma 02461.		
N5	Tatiana Dondarenko	9 Larcher rd, 9A, Newton, Ma 02459		
✓ N6	Vladimir Prolupets	20 marvin lane MA 02459		
✓ N7	Fanya Prolupets	12 marvin lane MA 02459		
✓ N8	Evelina Yanicovskii	16 Walnut rd MA 02459		
N9	Alex MAPOV	1094 Walnut St		
N10	Ncha MAPOV	1094 Walnut St		

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RECEIVED
 NOV 18 10 03
 REGISTERED

Total Certified Signatures: 7

Petition to Appeal Ordinance No. Z-77 related to the Zoning regulations, Chapter 30, of the City of Newton, Massachusetts.

We, the undersigned petitioners, appeal amended zoning laws to be implemented October 2011 in accordance with Ordances Z-77. We request a special meeting between the City of Newton Aldermen who voted on this ordinance and those identified in this partition. This appeal is predicated on the fact that the amended laws do not accomplish that which they intended: providing smaller homes/lots greater square footage to build on their land. In addition, we believe that the Aldermen who voted on this ordinance were inadequately informed and as a result cannot possibly comprehend the variables involved in the amendment, and the unintended negative impacts of this ordinance. We further request that these changes defined in Ordinance No. Z-77, not be implemented until we have met with the Aldermen.

No	Name	Address	Phone	Email
N1	Kaitlin Mannix	7 Fayette St 02458	617-516-1004	kmannix@gmail.com
✓2	Jesse Mannix	41 Mayflower Rd 02467	617-964-1614	mannixja@bc.edu
✓3	John Mannix	41 Mayflower Rd. 02467	617 964 1614	John.Mannix@comcast.com
✓4	Shirley Mannix	41 Mayflower Rd. 02467	617 312 9695	mannixsh@bc.edu
N5	Dave Power	21 THORNTON ST #2	857-417-2099	flyb.power@yahoo.com
✓6	Sile Power	21 THORNTON ST #2 02458	857-919-2240	silexp@netscape.net
N7	Peter Ryan	15 RICKER RD 02458	617 594 9926	Petersryan@gmail.com
N8	Sonathan Ryan	15 RICKER RD 02458	617 407 1927	Paddy@stateside@hotmail.com
N9	Jamie Kehoe	15 Ricker RD 02458	857 540 6404	JamieKehoe@yahoo.com
N10	SON JO O'NEILL	15 RICKER RD 02458	617 200 8689	PrecisionPush@hotmail.com
N11	Sean Gallagher	12 Rockland St 02458	617-981-5408	Seangall51@yahoo.com
N12	Kayla Joyce	12 Rockland St. 02458	508-404-8885	KayJay512@gmail.com
N13	EDMONO SPRUHAN	7 FAYETTE ST 02458	617-816-0722	EDMONO@RAVASSA.COM

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JOYCE G. MOSS, AICP

PROFESSIONAL EXPERIENCE

Economic Development Specialist, Needham, MA

2007-2009

New position under the direction of Council of Economic Advisors (CEA): Responsible for developing, implementing short and long-term strategies for the Town's commercial and mixed-use areas;

- Designed/directed initiative to make the New England Business Center (Highland Avenue) more competitive; wrote Needham section of report to state to expedite funding for Needham St/Highland Ave Corridor;
- Successfully advocated for official policy directive by Needham BOS to explore feasibility of Green Line or Silver Line along ROW parallel to Needham St/Highland Ave;
- Established initiative to increase foot traffic in Needham Center and promote collaboration and communication among Town government, downtown merchants, and local business association;
- Advocated for more business-friendly permitting practices, particularly for small businesses;
- Achieved Economic Target Area status (ETA) under the Commonwealth's Economic Development Incentive Program (EDIP);
- Provided economic development staff support for the Downtown Study Committee and Report that produced new downtown zoning;
- Conceived and carried out 'visualizing density' workshops to evaluate TOD project at Needham Heights;
- Member of Board of Directors, *Newton-Needham Chamber of Commerce*; member of Chamber's Economic Development Subcommittee.

Economic Development Officer, Westwood, MA

2004-2007

Under the policy direction of Economic Development Advisory Board (EDAB): Responsible for developing plans, creating tools and incentives to foster commercial real estate development and local business retention and expansion.

- Worked successfully with Town to (a) develop Mixed Use Overlay [MUOD] zoning; (b) establish Economic Target Area status for Westwood, and (c) establish a coordinated review and outreach plan for pre-permitting activities related to Westwood Station, a TOD mixed-use development project on 235 acres at University Avenue;
- Created a public/private incentive plan to encourage redevelopment of 60 acres of underutilized commercial/industrial land on Route One;
- Advocated to boards for businesses seeking to locate in and/or to those already established in Westwood.

Tourism Brochure, MetroWest Chamber of Commerce

2003

- Conceived, secured funding for, and executed a cultural tourism map initiative featuring town centers and historic landscapes in the MetroWest Chamber's 10-town service area.

Downtown Manager, Town of Natick/ Exec. Director, Natick Ctr. Associates, Inc., Natick's public/private downtown revitalization partnership

1995-2002

Worked with Natick- its boards, institutions, committees and commissions- to revitalize downtown Natick:

- Leveraged \$3 million in private investment; increase of 70,000 sq. ft of downtown retail space;
- Instituted and directed revitalization activities: strategic planning; re use/ redevelopment of downtown properties, market analysis; design master plan; streetscape/ storefront improvement; civic art;
- Worked with Planning Bd, BOS on zoning and regulatory actions related to downtown; on design standards for project review in the downtown;
- Worked with the Chamber and Small Business Development Center to create a regional micro-loan fund;
- Developed partnerships and programs to beautify the downtown and celebrate the Natick community;
- Advocated at state and local levels of government for establishment of TCAN, the Natick Arts Center;
- Established partnerships among the business community, civic institutions, and advocacy groups to develop downtown projects and enlarge the constituency for downtown revitalization;
- Established a farmers' market; a merchants' council; an arts and commerce task force;
- Wrote successful grant applications for land conservation, tourism development, farmers market development as well as those traditionally available for downtown revitalization through DHCD.

Resume of Joyce G. Moss, AICP, continued

Mill Village Coordinator 1993-1994
Downtown Revitalization Partnership Program, DHCD

- Organized a sub-regional partnership among business/ property owners, town officials and residents to revitalize historic mill village centers in two Blackstone Valley towns.

Open Space Planner (Intern), Grafton, Massachusetts 1992

- Researched and analyzed data; authored the 1992 Grafton Open Space & Recreation Plan

Researcher (Intern), Lincoln Institute of Land Policy 1991-1992

- Researched and wrote about state and municipal growth management practices for the Institute's 1992 publication, Managing Change in America's Communities.

Freelance Editor 1985-1988

- Worked with writers to develop and edit their manuscripts:
In the Shadow of the Great Blue Hill, Karen Dacey, Univ. of America Press, 1995;
A Woman's Guide to Good Health After 50, Marie Feltin, M.D., AARP, Scott, Foresman, 1987.

Magazine Reporter, Money Magazine, Time, Inc. 1982-1984

- Reported on the local perspective for monthly magazine about finances.

PROFESSIONAL AWARDS

Federal Home Loan Bank Award for Community Development 2000

- Presented to Natick Center Associates, Inc. Given annually to one non-profit organization in each New England state that demonstrates superior work in economic development.

Walton Small Business Leader of the Year Award 1999

- Presented by the MetroWest Chamber of Commerce.

American Planning Association-New England Chapter, Annual Planning Awards 1993

- Best Project by a Graduate Student: 1992 Grafton Open Space and Recreation Plan.

COMMUNITY SERVICE EXPERIENCE

Mayor's Mixed Use Zoning Task Force 2010

- Short-term initiative (4 months) established to recommend an amendment to Comp Plan.

Community Preservation Act Committee (CPA), Newton, MA; Chair, FY 2009. 2003-2009

- Committee recommends grant awards to projects that create affordable housing, preserve historic resources, protect open space. Authorized under the Community Preservation Act, September, 2000.

Planning and Development Board, Newton, MA 1994-present

- Mayoral appointment. Decisions involve subdivision; allocation of federal and state community development funds; advisory actions to BOA on zoning and planning.

Comprehensive Plan Advisory Committee, Newton, MA 2002-2007

- Committee was charged with developing the Newton Comprehensive Plan. Plan adopted 2007.

Newton Framework Plan Committee, Newton, MA 1998-2000

- Committee produced a policy framework to guide the development of the comprehensive plan.

EDUCATION

Tufts University, Department of Urban and Environmental Policy/ Planning M.A.: Area of concentration:
Land Use Policy/Planning

Harvard University, Graduate School of Education M.A.T.: History/Social Studies

University of Rochester A.B.: History/Political Science