



David B. Cohen
Mayor

City of Newton, Massachusetts Community Preservation Committee

CONFIDENTIAL

MEMORANDUM OF UNDERSTANDING

15 May 2003

Confidential as part of bidding process for
the property in 2003. Considered a public
document once the property was acquired.

Mayor David B. Cohen
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

CONFIDENTIAL

Re: Kessler Woods

Dear Mayor Cohen:

On behalf of the Community Preservation Committee (CPC), we commend you for your considerable efforts to create a thoughtful and well-balanced proposal to preserve open space, provide recreational opportunities, and create community housing on the site known as Kessler Woods. Your strong leadership and commitment to this project has shaped a balanced conservation and development concept that is tailor-made to the unique features of this site and neighborhood, as well as to the unusual structure of the Boston Edison bidding process.

At our meeting last night, the Community Preservation Committee was pleased to unanimously support your CPA funding request of up to \$5M for the purposes of funding a portion of the proposed bid to Boston Edison for acquisition of Kessler Woods. The other portion of the bid would be funded by a private development firm selected by you. If the City's bid prevails, at a minimum the City would own the entire south parcel (Area 4) and a portion of the north parcel on the corner of Vine and LaGrange Streets (Area 3) for permanent open space. In our references to various areas (Areas 1-4) we are referring to the areas denoted on the plans (Figures 1-8) prepared by Sasaki Associates, Inc. for the City of Newton, Planning and Development Department, dated March 2003.

Based on the CPC meeting last night, it is our understanding that the City expects to execute a contract with the development firm prior to the submission of a bid to NStar. While recognizing that you need to take all necessary steps to assure the highest possible contribution from the developer in order to maximize the City's chance of winning the bid, the CPC requests that you use best efforts to include the following terms:

1. The development firm would pursue the City's preferred conceptual site plan through all required permitting including potential litigation and appeals. The preferred conceptual site plan includes:
 - Permanent open space on Areas 3 and 4, to be owned by the City.
 - Development of Areas 1 and 2, totaling 63 units:
 - 7 (or 8) single family houses on Area 1

- 55 (or 56) multi-family units on Area 2 that are housed in multiple buildings with the general appearance and massing of single-family houses with approximately 2-4 units in each building. Units in Area 2 include a minimum of 11 affordable units.
 - We anticipate the remaining undeveloped portion of Area 1 and the environmentally constrained areas of the north parcel, as identified roughly by the Sasaki plans referred to above, will be donated to the City by the developer or permanently protected with a conservation easement or restriction held by the City (that includes public access) with an option to purchase the land for a bargain sale price (e.g., \$1).
2. In the event that the preferred conceptual site plan does not prevail, the City would ensure that, in any alternate development that involves a form of housing in which community housing can feasibly be a component, a minimum of 15% of the total housing units developed be community housing.
 3. In the event that the development firm does not go forward with a development plan that includes community housing, the City would have the right to purchase Areas 1 and 2. The arrangement would give the City a minimum of 9 months to act, which may include the City assigning its rights to an alternate developer.
 4. The City would incorporate creation of a trail system that links new and existing conservation areas into the development firm's contractual commitments.
 5. At the time of the closing with Boston Edison, the City would receive a mortgage, covenant, or other appropriate real estate interest that would assure the City's rights in the non-buildable/open space portions of the North parcel and the performance of the developer's other commitments to the City.

The Community Preservation Committee is committed to advocating for the appropriation of your CPA funding request for \$5M and to actively support the implementation of this important open space, passive recreation, and community housing project. Again, on behalf of the Community Preservation Committee, we thank you for your considerable efforts to bring a project forward that skillfully balances three of the CPA goals, creatively respects neighborhood character, and provides extensive open space conservation on the site, while allowing for the assemblage of a competitive bid for the acquisition of Kessler Woods.

Very truly yours,



Jeffrey Sacks, Chair



Douglas Dickson, Vice-chair

cc: Michael Kruse, Director of Planning & Development
Daniel Funk, City Solicitor