

City of Newton



City of Newton, Massachusetts
Community Preservation Committee

MEMORANDUM

David B. Cohen
Mayor

TO: Honorable Board of Aldermen
FROM: Community Preservation Committee (CPC)
DATE: 2 September 2003
RE: **CPC Recommendations for CPA Funding**

PROJECT TITLE: KESSELER WOODS

CPA CATEGORY: Open Space and Recreation

PROJECT DESCRIPTION

The applicant, the Mayor of the City of Newton and the Planning & Development Department, request CPA funding of an additional \$1,018,500 for acquisition of the Kessler Woods property and related expenses. Kessler Woods is a tract of more than 42 acres of unprotected open space in Newton. The land is currently owned by the Boston Edison Company (*NSTAR*) who recently notified the Mayor that the City's co-bid with Cornerstone Corporation was the highest bid received in the second round of bidding on August 8. The City and Cornerstone are scheduled to close on the purchase of the property on January 7, 2004.

As presented at your special meeting on August 5, in order to create the City's final and best offer for the land, Cornerstone agreed to increase its contribution from \$6.3M to \$9.1M and the Mayor agreed to request an additional \$1M to increase the City's share from \$5M to \$6M. The development plans were also modified from the original proposal, which was 63 total units, to a total of 73 units (Area 2 increases from 55 to 62 units, with 20% affordable; and Area 1 increases from 8 to 11 house lots). The City submitted the winning bid with Cornerstone on August 8, totaling \$15.1M.

Should the additional \$1M, as requested, not be granted, Cornerstone has agreed to increase its contribution from \$9.1M to \$10.1M and will create 14 single-family house lots on Area 1 (rather than 11); the plans for Area 2 would not change in any way.

In addition to the \$1M, this request includes \$18,500 for related expenses resulting from the purchase. This includes \$10,000 for outside counsel, \$6,000 for title insurance, and \$2,500 for recording fees, title rundowns, copies, and other miscellaneous expenses related to the purchase. (See the attached letter from City Solicitor Dan Funk, dated August 25.)

A preferred conceptual site plan (as revised for the August 8 bid submittal) is as follows (refer to attached map to locate Areas 1-4):

OPEN SPACE COMPONENT

Area 3 (corner of Vine and LaGrange Streets): Open Space, owned by the City, under the control of the Conservation Commission.

Area 4 (the South Parcel): Open Space, owned by the City, under the control of the Conservation Commission and likely to be merged with the existing Saw Mill Brook Conservation Area.

Environmentally Constrained Area (approximately 35% of entire site): Open Space possibly protected through a conservation easement or restriction (held by the City, Conservation Commission) with an option to purchase for nominal consideration.

HOUSING COMPONENT

Area 1 (Brookline Street): 11 single-family houses including 6 along the existing road frontage (ANR lots), 3 rear lot subdivisions with common driveways, and 2 lots off of the end of Harwich Road. This plan provides a substantial open space buffer along the east portion of Area 1.

Area 2 (LaGrange Street): 62 single-family attached units on Area 2 that are housed in multiple buildings with the general appearance and massing of single-family houses with approximately 2-8 units in each building. Twenty percent of the total units in Area 2 will be affordable units as defined by the City's Inclusionary Zoning Ordinance. In order to comply with the minimum lot size requirements of the Zoning Ordinance, some of the environmentally constrained land, although unbuildable, may form part of the lot. The City would obtain a conservation easement that enables public access on the environmentally regulated and open space areas of the lot.

The plan would likely include a loop road, individual driveways with garages incorporated within the buildings to minimize surface parking, and a significant landscaped buffer along the northern edge abutting existing single family houses.

The development of the housing portion on Area 2 would require a special permit and, depending on the final site plan, some of the development on Area 1 may require a special permit. In the event that the special permits required are not forthcoming, while Areas 3-4 will still be preserved as open space, the remainder of Area 1 may be subject to development to accommodate up to 14 single-family house lots. Area 2 may be developed with no more than 80 dwelling units.

FINDINGS

Community Preservation Act

This proposal meets the criteria established under MGL c.44B because:

1. The subject parcel meets the definition of open space since it is forest land, 35% of which is environmentally constrained, and the land is also important wildlife habitat since it links to two conservation areas (Saw Mill Brook and Baldpate Meadow Conservation Areas).
2. The project will protect existing open space from development encroachment through a City acquisition of Areas 3 and 4 of the site, which comprise approximately 9.4 acres of developable land and a conservation easement on the environmentally constrained land (over 15 acres), with an option to purchase for nominal consideration.

Newton Community Preservation Plan Overarching Goals

1. Contribute to the preservation of Newton's unique character, boost the vitality of the community and enhance the quality of life for its residents.	Yes
2. Serve more than one CPA category.	Yes
3. Demonstrate the highest cost/benefit value relative to other proposals.	See below
4. Leverage other public and/or private funds.	Yes
5. Preserve a resource or opportunity that would otherwise be lost.	Yes
6. Create incentives for other private projects to occur.	No
7. Show that a project is the most reasonable available option to achieve the objective.	Yes
8. Demonstrate strong community support.	See below
9. Serve to equitably distribute CPA funds throughout the City.	Yes

Additional comments on selected goals:

Goal #3: Projects received during the FY03 funding round included a high CPA cost of \$5,000,000 and a low CPA cost of \$24,780. The CPA cost for this project is up to \$1,018,500 (which would be added to the \$5M that was already approved for this project). The relative benefit for this project includes the following factors:

- At a minimum, the CPA funding would result in permanently preserving Areas 3 and 4 as open space.
- If the preferred conceptual plan, as described above, is achieved, the City would preserve a total of 24-28 acres of open space on the site through a combination of City acquisition of the entire south parcel (Area 4) and a portion of the north parcel (Area 3), and conservation restrictions on portions of the north parcel, with an option to purchase for nominal consideration.
- Specifically, the request for additional funding would enable the development on Area 1 to be limited to 11 single-family house lots, which would:
 - Preserve an open space buffer between the new development and existing residences,
 - Maximize the amount of city-owned, publicly accessible open space,
 - Enable the creation of a passive-recreation trail system with access from the end of Harwich Road,
 - and minimize the amount of impervious surfaces through create use of common driveways.

Goal #8: Kessler Woods is the largest open space land in the City at risk of development. For many years, this land has been a conservation priority identified in the City's *Recreation and Open Space Plan* due to its environmentally sensitive features which include: a substantial amount of wetland and floodplain; Saw Mill Brook; a locally-rare vegetative community; and a significant amount of diverse wildlife habitat. The Mayor held a public meeting on May 6, and the CPC heard public comments at its May 12 and September 2 meetings. Many attendees spoke in favor of limited development on the site that incorporated community housing, just as many spoke in favor of maximizing open space on the site to the greatest extent possible. The City's proposed conceptual site plan intends to balance both of these important CPA and community goals as well as integrating passive recreation opportunities into the site.

Open Space Goals

1. Provide protection for land listed in the <i>Recreation & Open Space Plan</i> .	Yes
2. Expand existing open space.	Yes
3. Enhance biodiversity or wildlife habitat and reclaim natural resources.	Yes
4. Protect wetlands, mitigate flooding and improve groundwater recharge.	Yes
5. Create small pocket parks.	No
6. Enable the development of passive recreation opportunities.	Yes, see below

7. Serve as suitable sites for nature-related education, scientific study, or observation and enjoyment of nature.	Yes, see below
8. Protect a natural feature of special interest.	Yes, see below
9. Enhance public access (where access does not seriously threaten habitat).	Yes
10. Provide linkages and wildlife corridors between open spaces.	Yes

Additional comments on selected goals:

Goals #6 & #7: Acquiring Areas 3 and 4 will provide an opportunity to create a passive recreation trail system and to formalize public access on existing trails. To further this goal, the City's agreement requires Cornerstone to contribute \$75,000 for construction and maintenance of new trails on this property. New trails will provide opportunities for passive recreation, nature-related education, scientific study, etc.

Goal #8: This project would provide protection to Areas 3 and 4, which both have scenic road frontage, forested land, flowing water, and scenic views. In addition, Area 4 has a locally rare plant community. See the attached matrix titled "Kessler Woods: Environmental Attributes of Areas 1-4" prepared by Martha Horn, Senior Environmental Planner, City of Newton.

Recreation Goals

1. Address the needs targeted in the <i>Recreation and Open Space Plan</i> and take advantage of other opportunities to meet the recreation needs of the residents of the City.	Yes
2. Meet the recreation needs of the greatest number of residents possible.	No
3. Meet the greatest variety of recreation needs possible.	No
4. Serve passive as well as active uses. Finding ways to balance the range of recreational opportunities and serve the diverse recreation needs of the community is a priority of the CPC.	Yes
5. Preserve sight lines consistent with open space. . . . Decisions about scale and placement should be made with the objective of enhancing or enabling open views.	Yes, see below
6. Access for disabled residents should be included in plans wherever possible.	NA

Additional comments on selected goals:

Goal #5: The City's preferred conceptual plan, described above, clusters limited housing development in two areas of the site and enables maximum preservation of open space, passive recreation opportunities, and preserves site lines consistent with open space to the greatest extent possible under a limited development scenario.

CPC RECOMMENDATION

This project is a rare opportunity that is consistent with the CPA criteria and many of the Plan's goals, as described in detail above. The Community Preservation Committee (CPC) recognizes the extraordinary amount of open space that will be preserved through this proposal and acknowledges the Mayor's commendable efforts to incorporate affordable housing into the preferred plan.

Specifically, the CPC supports the preferred plan for Area 1 of 11 single-family house lots, over the fallback plan of 14 single-family house lots, because it will serve to preserve more open space, maintain an open space buffer from abutters, maximize the amount of City-owned open space, enable creation of a trail system with access from Harwich Road, and will minimize impervious surfaces. The additional \$1M, as requested, will enable Cornerstone to pursue the preferred plan for Area 1.

Therefore, the Community Preservation Committee unanimously recommends funding this application by borrowing the requested \$1,018,500 to be expended under the direction and control of His Honor the Mayor for purposes of funding the acquisition of a portion of the Kessler Woods property and related expenses with the following conditions:

1. At a minimum, the City will acquire the entire south parcel (parcel #820410022) and an approximately 2.4-acre portion of the north parcel (parcel #820370003) located on the corner of Vine and LaGrange Streets. These areas are referred to as Areas 3 and 4 on the attached map, prepared by Sasaki Associates, Inc. The purpose of these acquisitions is for permanent open space.
2. The preferred plan for Area 1 includes an adequate open space buffer from abutters that will be permanently protected with a conservation easement held by the City.
3. Any portion of the grant not used for the purposes stated herein shall be returned to the Newton Community Preservation Fund.

TO: Honorable Board of Aldermen
FROM: Michael Kruse, Director
DATE: 24 October 2003
RE: Kessler Woods – New Information
CC: Mayor David B. Cohen

In response to some of the concerns expressed at the joint meeting of the Ad Hoc and Finance committees on October 2, Cornerstone has revised the 11-lot plan for Area 1 of Kessler Woods. The new plan increases the city-owned and publicly-accessible open space by approximately 0.4 acres and provides open space linkage for trail creation north of Saw Mill Brook.

Although Cornerstone studied a number of alternative schemes for the 14-lot plan and studied hybrid plans for 12 or 13 units, none were found to be feasible due to the various environmental regulations affecting the land, topography, frontage, and access. Therefore the 14-lot plan has not changed.

We believe the 11-lot plan is superior for a number of reasons, including:

- Maximizes the amount of city-owned, publicly-accessible open space (adding over 3.2 acres above the amount the 14-lot plan provides),
- Enables the creation of a passive-recreation trail system with access from the end of Harwich Road that connects through the City-owned land of the north parcel to the south parcel, and, ultimately to the Saw Mill Brook Conservation Area,
- Minimizes the amount of impervious surfaces through creative use of common driveways (the 14-lot plan creates over 10 times more impervious roadway surfaces),
- Minimizes the loss of mature trees due to regrading for house lots and creation of road surfaces, and
- Minimizes disturbance of wildlife habitat through the permanent preservation of over 3.2 acres of open space.

If you have any questions regarding this information, please contact me at 617-796-1130 or Jennifer Goldson at 617-796-1131. Thank you.

TO: Honorable Board of Aldermen
FROM: Michael Kruse, Director
DATE: 24 October 2003
RE: Kessler Woods UPDATE – Docket # 227-03(2)
CC: Mayor David B. Cohen

In response to some of the concerns expressed at the joint meeting of the Ad Hoc and Finance Committees on October 2, Cornerstone has revised the **11-lot plan** (see attached preliminary site plan) for Area 1 of the Kessler Woods parcel, as follows:

<u>Lot Number</u>	<u>October 2 Plan</u>	<u>October 24 Plan</u>
1	14,219 s.f.	14,261 s.f.
2	13,965 s.f.	14,027 s.f.
3	15,671 s.f.	15,775 s.f.
4	16,693 s.f.	16,756 s.f.
5	16,373 s.f.	16,355 s.f.
6	17,499 s.f.	17,815 s.f.
7	42,091 s.f.	42,107 s.f.
8	37,148 s.f.	37,170 s.f.
9	26,190 s.f.	26,332 s.f.
10	23,885 s.f.	23,855 s.f.
11	40,478 s.f.	22,865 s.f.
Parcel "A"	30,164 s.f.	30,167 s.f.

As indicated above, lot sizes have been slightly adjusted for all lots, with the exception of "Lot 11" where the adjustment results in a *beneficial* change (to the City) in lot size from 40,478 s.f. to 22,865 s.f., or an additional **17,613 s.f. (0.4 acres)** of land to be deeded to the City of Newton. This change now provides publicly-accessible open space that could be used to link other land to be deeded to the City for trail creation north of Saw Mill Brook. ***It is important to note that "Parcel A" (buffer zone) will remain deed restricted with a conservation easement, but will be owned by a homeowner association to be created by Cornerstone.***

Cornerstone studied a number of alternative schemes for the **14-lot plan** and, based primarily on the various environmental regulations affecting the land, topography, frontage, and access, made only minor adjustments to that plan (see attached preliminary site plan).

We believe the **11-lot plan** is a *better-quality* plan than the 14-lot plan for a number of reasons (although **NOT** clearly shown on the attached copies of the two plans), including:

- Maximizes the amount of **city-owned**, publicly-accessible open space (21.4 ± acres in the *11-lot plan* compared to 18.5 ± acres in the *14-lot plan*),
- Maximizes the amount of **deed restricted** land with a conservation easement (but not city-owned), most of which is publicly-accessible open space (7 ± acres, including the “buffer zone” in the *11-lot plan* compared to 6 ± acres in the *14-lot plan*),
- Enables the creation of a passive-recreation trail system with access from the end of Harwich Road that connects through the City-owned land of the north parcel to the south parcel (other side of Vine Street), and ultimately to the Saw Mill Brook Conservation Area,
- Minimizes the amount of impervious surfaces through creative use of common driveways (the *14-lot plan* creates over 10 times more impervious roadway surfaces),
- Minimizes the loss of mature trees due to regrading for house lots and creation of road surfaces, and
- Minimizes disturbance of wildlife habitat through the permanent preservation of over 28.4 ± acres of open space (**city-owned plus deed restricted land**).

As the attached copies of the two plans do not clearly indicate the differences between the city-owned land and the deed restricted land, we expect to have better quality plans available for presentation at the October 27 meeting of the Ad Hoc and Finance Committees.

If you have any questions regarding this information prior to the Monday meeting, please contact me at 617-796-1130 or Jennifer Goldson at 617-796-1131. Thank you.



City of Newton, Massachusetts
Community Preservation Committee

David B. Cohen
Mayor

November 17, 2003

To: Honorable Board of Aldermen
From: Community Preservation Committee
Re: Kessler Woods [Docket #227-03(2)]
Cc: Mayor David B. Cohen

As you each approach your final consideration of the additional \$1 million in Community Preservation Funds we recommended for the purchase of Kessler Woods, we thought it might be helpful to offer a context for and to reframe the rationale for our recommendation. As some of you pointed out during the joint meetings of the Ad hoc and Finance Committees last month, much of the discussion to date has tended to confuse rather than clarify the factors that underlay our initial understanding of this deal.

When the City was given the opportunity to participate in the second round of bidding, we knew that our initial contribution of \$5 million was inadequate to achieve the goals we had set for the project. Among those goals were a) preserving as much open space as possible, b) connecting the existing conservation areas already owned by the city, c) keeping the density, siting and style of construction in line with the surrounding neighborhood, and d) getting as many affordable housing units in the mix as possible.

Our winning bid of \$15.1 million, submitted in August, was predicated on a City contribution of \$6 million, with the remainder covered by Cornerstone. Because the tight timeline did not allow CPC or the Board of Aldermen to formally consider the additional \$1 million, we met in Executive Session with the Mayor and agreed in principle that the benefits to the community of achieving our goals for this property justified the incremental expense. To enable us to go forward, Cornerstone offered to guarantee the additional \$1 million, for which we negotiated three additional house lots as “collateral” in the event the City did not live up to its end of the deal. This was a technical consideration—we don’t believe anyone intended at that point to activate the offer.

Since then, the developer’s planning process has revealed details of various scenarios. Based on those details, calculations have been made and put forward by various parties as a basis for reconsidering the terms of the original deal. Confusion has come as a consequence of evolving plans (to be expected at this early stage) and recalibrations of the value proposition related to the original goals for the project. The variations on these themes are many: size and location of additional lots, their encroachment on open space, public versus privately owned open space, public access, how the money might otherwise be spent, and other details that are typically part of and will ultimately be decided in land use proceedings.

Because the debate has now shifted to these considerations, we would like to offer our view based on information that was not known in early September, when we

unanimously voted to recommend this expenditure. We believe the various 11-lot plans, while varying in detail, are better in principle than the 14-lot plans because:

- They preserve at least three acres of public open space, which at about \$330,000 per acre is a bargain based on other acquisitions we have funded.
- They reduce the impact on the neighborhood, on the wetlands and on City services.
- They create needed flexibility in the layout of walking trails and public access from City-owned rights-of-way, including Harwich Road.
- They add flexibility in siting of homes that should serve to moderate changes to the natural character of the land, reducing grade changes and loss of trees.

We submit that the benefits to the community of these incremental gains are worth much more than the cost to us of \$1 million. **This expenditure is a good deal** and, while there will always be other needs and possibilities for spending money on this order, the value here is significant.

At its most basic level, the decision now faced by the Board of Alderman hinges on the answer to two questions:

- 1) Are the goals we started with still valid?
- 2) Are they worth \$6 million over ten years to achieve?

We believed earlier and continue to believe now that the answer to both questions is a strong YES.

To his credit, the Mayor and his task force cobbled together a delicate balance of interests in crafting the winning bid for this long sought-after piece of land. Advocates for open space and affordable housing, the neighbors, our development partner and others all compromised their initial positions in order to advance their individual interests. In an unprecedented process, the City prevailed in this effort. We believe that keeping this coalition of interests in balance should be an important part of our effort going forward.

The time for working the details of these projects will occur as the two developments come before the Planning and Development Board, the Conservation Commission and the Board of Aldermen. The opportunity now is to put the essential structure of the deal into place. We stand behind our recommendation and strongly urge you to appropriate the additional \$1 million to acquire this land.

Respectfully,

Jeff Sacks, Chair
Doug Dickson, Vice-chair
Charlie McMillan
Joyce Moss
Andy Stern
Claudia Sauermann Wu