



Newton Cemetery Corporation

A Beautiful Garden Cemetery Serving Greater Boston

September 25, 2017

Community Preservation Committee
c/o Planning and Development Department
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

**RE: Community Preservation Program Full Proposal
Restoration of the Whipple/Beal Fence, Newton Cemetery**

To Whom It May Concern:

Thank you for considering a full proposal in the Fy18 Community Preservation Program funding round for the restoration project of the Whipple/Beal fence at Newton Cemetery. The restoration of the fence directly fits the goals of the Community Preservation Act because it supports an effort to preserve a significant historical feature in the community of Newton. Newton Cemetery, and the Whipple/Beal fence, represent an important cultural resource with educational and research value for the public.

Founded in 1855 during the rural cemetery movement, Newton Cemetery is an active, garden style cemetery and accredited arboretum. The grounds are open to the public daily and an increasing number of visitors are coming to learn about the cemetery. History tours (co-sponsored with Historic Newton) are held regularly and well attended. In addition, self-guided history tours such as "Notable Burials", "Civil War Soldiers" and "Who Inspired Our School Names?" are available on the cemetery's website.

The Whipple/Beal lot is one of the most historically important in the cemetery. It is the site of the first interment (in 1856) and is surrounded by the last remaining piece of decorative cast iron fencing in Newton Cemetery. The cemetery wishes to restore the Whipple/Beal fence to prevent further deterioration and install interpretive signage to educate visitors, thus benefiting public interest in the history of the Cemetery *and* the City of Newton. Funding from the Community Preservation Program will make the project possible.

Your consideration of this request is appreciated.

Sincerely,

Mary Ann Buras
President, Newton Cemetery
enc

CPC STAFF NOTE: Notes on attachments lists below identify attachments posted separately on the Newton CPC website.

Project TITLE		Whipple/Beal Fence Restoration Pre-Proposal	
↓ Check off submitted attachments here.			
REQUIRED.	A. PHOTOS	of existing site or resource conditions (Attachment #3)	
	A. MAP	of site in relation to nearest major roads (Attachment #4)	
Full proposals: separate, detailed budget attachments REQUIRED.	B. PROJECT FINANCES printed and as computer spreadsheets, with both uses & sources of funds		
	development pro forma/capital budget: include total cost, hard vs. soft costs and contingencies, and project management amount and cost of time from contractors or staff (in-kind contributions by existing staff must also be costed).		
	operating/maintenance budget for project, projected separately for each of the next 10 years		
	non-CPA funding: commitment letters, letters of inquiry to other funders, fundraising plans, etc., including both cash and est. dollar value of in-kind contributions		
	Please also document attempts to contact the family for support, and their responses. (Attachment #5)		
	purchasing of goods & services: briefly summarize sponsor's understanding of applicable state statutes and City policies (Attachment #11)		
Full proposals: REQUIRED.	C. HISTORIC SIGNIFICANCE	Attachments analyzing historic significance and significant features, and showing how project meets national preservation standards (Attachment #6 & 7)	
		Newton Historical Commission, for CPA eligibility (Attachment #12) Letter from Katy Hax Holmes, to be confirmed by NHC vote)	
REQUIRED for all full proposals.	D. SPONSOR FINANCES & QUALIFICATIONS, INSTITUTIONAL SUPPORT		
	for sponsoring organization, most recent annual operating budget (revenue & expenses) & financial statement (assets & liabilities); each must include any public (City) and private resources ("friends" organizations, fundraising, etc.)		
	long-term endowment funding strategy for the Cemetery itself		
	long-term capital needs/funding strategy for private lots & structures the Cemetery may need to repair/maintain in the future		
	for project manager: relevant training & track record of managing similar projects (Attachment #10)		
REQUIRED for all full proposals involving real estate acquisition, construction or other building/landscape improvements.	E. SITE CONTROL, VALUE & DEED RESTRICTIONS		
	deed for the lot (Attachment #8)		
	The Cemetery has said its Board/legal advisors will propose a plan to meet this requirement. Please include a summary of that plan.		
	agreement by lot owners to a permanent deed restriction for historic preservation		
	F. DESIGN & CONSTRUCTION		
	professional design & cost estimates: include site plan & elevations		
	materials & finishes; highlight "green" or sustainable features & materials		
	environmental mitigation plans: incl. lead paint, asbestos, etc. (including disposal of existing fence elements that cannot be repaired or restored) –		
OPTIONAL for all proposals.	G. LETTERS of SUPPORT	from Newton residents, organizations, or businesses (Attachment #9)	

** Attachments struck out here are posted separately on the Newton CPC website, in a file also containing this proposal's cover letter and proposal summary/form.

Newton, Massachusetts Community Preservation Program
Newton Cemetery – Whipple/Beal Fence Restoration

ATTACHMENT LIST

1. Newton's Heritage Landscapes Report (p. 1, 43)
2. Terra Firma-Putting Historic Landscape Preservation on Solid Ground (p. 5, 14)
- A-1. Photos
- A-2. Maps
- ~~B-1. Capital Budget and Maintenance Budget & Plan~~
- ~~B-2. Non-CPA Funding~~
- ~~B-3. Correspondence with Family/Lot Owners~~
- ~~B-4. Purchasing of Goods & Services~~
- C-1. Historic Significance Attachments
- C-2. Whipple/Beal Family Tree
- C-3. Newton Historical Commission
- ~~D-1. Sponsor Finances~~
- ~~D-2. Newton Cemetery's Long Term Sustainability Plan~~
- ~~D-3. Capital Needs Plan for Non-Cemetery Owned Structures~~
- ~~D-4. Sponsor Qualifications~~
- E-1. Deed for the Lot
- E-2. Summary of Plan for Preservation Restriction
- F. Design & Construction
- ~~G. Letters of Support~~

**** Attachments struck out here are posted separately on the Newton CPC website, in a file also containing this proposal's cover letter and proposal summary/form.**

INTRODUCTION

The Newton Planning and Development Department and the Community Preservation Committee have collaborated to bring the Heritage Landscape Inventory program to the City of Newton. The primary goals of the program are to identify a wide range of landscape resources and to provide strategies for preserving these landscapes, especially those that are most valued by the community.

The Heritage Landscape program is a community-based process through which local participants come together to compile a list of special places in the community. Traditional preservation techniques such as historic resource surveys, preservation plans, National Register listing and local historic district designation are powerful tools for dealing with buildings, but are often less effective in dealing with other resource types, including the context and setting of buildings and the more subtle values that contribute to the quality of life in a community. The Heritage Landscape program encompasses cultural, natural and associative values, using a multi-disciplinary approach in understanding the community and developing preservation strategies. It also brings together a wide range of community perspectives in a process that is integrative, inclusive and participatory.

The program uses a broad definition of heritage landscapes as “special places, created by human interaction with the natural environment, that help define the character of the community and reflect its past.” Heritage landscapes are dynamic and evolving; they reflect the history of the community and provide a sense of place; they show the environmental features that influenced land use patterns; and they often (but not always) have scenic qualities.

These diverse landscapes are central to Newton’s character, yet they are vulnerable and ever-changing. For this reason it is important to take steps towards their preservation by identifying those that are particularly valued by the community – a favorite local park, a distinctive neighborhood or village center, a unique natural feature or an important river corridor. For the purposes of this report and the Heritage Landscape program in Newton, heritage landscapes encompass landscapes at a variety of scales from tiny traffic triangles to the Charles River corridor, as well as features within the City that serve as visual and social landmarks. Many are scenic, others are not, and not all meet traditional criteria for historical significance.

METHODOLOGY

The methodology for the Heritage Landscape Inventory program was developed in a pilot project conducted in southeast Massachusetts and refined in Essex County and the Freedom’s Way Heritage Area. It has continued in the Blackstone Valley, Pioneer Valley and in western Massachusetts, all under the leadership of the Department of Conservation and Recreation (DCR). The DCR publication *Reading the Land* has provided guidance for the program since its inception.

ATTACHMENT #1

APPENDIX: HERITAGE LANDSCAPES IDENTIFIED BY COMMUNITY

This list was generated by Newton residents at community meetings held in Newton on September 9, 11, 17 and October 1, 2008. It also includes suggestions posted on a blog established by the Newton Tab and other suggestions submitted to Newton Planning Department staff. This is not intended as a comprehensive list but rather represents landscapes considered by Newton residents as being important to the quality of life in their community. For convenience the chart is organized by land use category so that groups of like resources are listed together. Properties are generally listed alphabetically within each category but the residential category is organized with neighborhoods first, followed by individual residences, which are listed by last name of historic owner. The chart has two columns, the names and locations of resources are in the first; notes about resources are in the second. Abbreviations used are listed below.

- CR = Conservation Restriction
- DOE = Determination of National Register eligibility
- LHD = Local Historic District
- LL = Local Landmark
- NR = National Register
- PR = Preservation Restriction

Agriculture	
<i>Newton Angino Community Farm</i> 303 Nahanton St.	CR (Newton Conservators). City-owned 2.25-acre community farm with house, barn, outbuildings and fields. Barn was recently restored/renovated using private funds.
<i>Durant Kenrick Homestead</i> Newton Corner	NR-IND, LL. Built ca. 1732 by Captain Edward Durant – Georgian. One of pre-1800 houses in Newton with important landscape history. Nursery established by late 18 th -early 19 th century owner, John Kenrick resulting in specimen trees on property. Originally occupied over 100 acres on the hill and imported many early varieties of pears and peaches still grown today. In the 1830s, investors and nurseries hoping to create an American silk industry planted thousands of mulberry trees, to feed the silkworms. Unfortunately, few of the young trees survived New England winters. By 1844 the Kenricks' financial losses had forced them to subdivide and sell much of their original land on Nonantum Hill. Acquisition by the Newton Historical Society is pending.
Burial Grounds and Cemeteries	
<i>East Parish Burying Ground</i> Centre St., Newton Centre	NR-IND. Established ca. 1660. Also known as Centre Street Cemetery. 3.2 acres. Master plan prepared in 1999 as part of DCR Historic Cemeteries Preservation Initiative.
<i>Newton Cemetery</i> 1791 Walnut St.	Private non-profit garden cemetery established in 1855. 97 acres.
<i>Saint Mary's Cemetery</i> 258 Concord St. Lower Falls	NR-IND, DIS. Established ca. 1813. Associated with St. Mary's Episcopal Church. 1.83 acres.

MANAGEMENT FRAMEWORK

CEMETERY ADMINISTRATION

Massachusetts' municipal cemeteries fall under the jurisdiction of one or more local departments or volunteer commissions who control management, policy, maintenance and regulatory compliance. Some have seats on the local Community Preservation Commission and make recommendations about funding. While each municipality has its own government structure, the following represent the most common jurisdictions responsible for managing historic cemeteries in Massachusetts.

Department of Public Works *The municipal department in charge of roads and infrastructure, sometimes including tree care and other maintenance at historic cemeteries.*

Parks Department *Even when separate Cemetery Commissions exist, local parks departments are often charged with cemetery maintenance.*

Cemetery Department *Administered by public employees, this department is directly responsible for maintenance, capital improvements, and day-to-day cemetery operations including burials.*

Cemetery Commission *This municipally-appointed volunteer board of residents oversees the management of municipal cemeteries, often appointing the Cemetery Superintendent.*

Local Historic District Commission/Historical Commission *This volunteer commission may have legal jurisdiction to review physical changes to the historic cemetery if it is located within a local historic district, national register district, or a designated historic property.*

State Archaeologist/Massachusetts Historical Commission *Involved in the enforcement of state laws protecting historic burial grounds and evaluating permits for gravestone repair in accordance with 950 CMR 41. Laws include the MA Unmarked Burial Law (MGL Ch. 659 of the Acts of 1983 and Ch. 386 of the Acts of 1989) and the Gravestone Repair and Reproduction statute (St.1973 Ch.448).*

Regardless of who is the lead, collaboration among the above groups can be helpful by establishing common management goals and reducing costs through shared resources (i.e. equipment, personnel). Proper cemetery management also benefits from consultation with experts from a number of different disciplines like landscape architects, historians, civil and structural engineers, arborists, horticulturalists, masons archaeologists, and conservators, to name a few.

PARTNERSHIPS

Historic cemeteries serve an important civic function even long after the last plot is sold. Active and inactive cemeteries are valuable public open spaces, scenic locales, genealogical resources, and important historic landscapes, with many vested in their preservation. Cemetery managers can collaborate with non-profits or friends groups who can enhance public programming, provide volunteer labor, and promote fundraising. Friends groups are often cited as the driving forces behind the successful preservation of historic public cemeteries.



CASE STUDY SUCCESS: VINE LAKE PRESERVATION TRUST

As one of the 32 case studies in the Guidelines, Vine Lake Cemetery in Medfield received a preservation treatment plan, recommendations, and a priority action list. When local residents created the Vine Lake Preservation Trust in 2009, the Trust's Board used the Guidelines to develop their short and long term preservation plans, with a focus on tree management and gravestone preservation. The Trust is a private corporation that seeks to partner with the Cemetery Commission, which is the policy-making body for the town. Funded through private donations, pro-bono services, and public grants, the Trust has four key program areas – Preserve, Enhance, Interpret, and Celebrate – with projects such as headstone repair and volunteer training, to replanting, art programs, and walking tours on history, art and nature.

Photo by Vine Lake Preservation Trust

For more on partnerships see DCR's Terra Firma #4 - New Models of Stewardship: Public/Private Partnerships.



PROTECTING IRON FENCES

Iron fences are an important contributing feature to the historic character and fabric of the landscape, yet their care is often overlooked during cemetery restoration because they rarely mark a burial and almost never contain an epitaph or burial information. Iron fencing may surround individual or family plots, mark the boundary of a cemetery, or flank formal entrances. In cemeteries where metalwork is a distinctive feature – in the form of fencing, grave markers, signs, gates or statuary – the landscape preservation plan should layout recommendations for treatment.

Repairing fences with loose or fallen pieces should be a high priority, as separated features can easily be lost. Small repairs, such as tightening bolts or replacing missing bolts, can easily be performed by cemetery staff. Consult a professional conservator for more complicated repairs, such as repairing or reattaching bent or damaged ornamentation, and for repairs of breaks in decorative cast iron fencing.

Painting inhibits rust formation, one of the leading causes of iron fence deterioration. The best practice is to remove all loose rust by hand with a wire brush, apply a coat of rust converter (available at hardware stores), followed by a coat of primer and several coats of paint. All primer and paint should be designed for outdoor metal surfaces.

For more information, view an instructional video at <http://ncppt.nps.gov/2007/iron-fence-repair-video-2007-03/>.

PUBLIC PROGRAMMING

A major goal in preserving historic cemetery landscapes is to benefit the public. These important open spaces have a stories to tell and can be adapted into vibrant community resources through interpretation and public programming. Simple interpretive panels at cemetery entrances can give visitors a brief history and point out areas of interest. Self-guided tours can be illustrated through a brochure or a web-based map. Local Historical Commissions, Friends groups and other organizations can help promote stewardship through group tours, annual events, and art programs. Especially when cemeteries are inactive, public programming is essential to maintaining a high level of public awareness, one of the keys to successful stewardship.



Iron fencing around family plots was a distinctive feature of the Rural Cemetery movement, and was popularized through retail catalogs. In some areas fencing was added to plots at older burial grounds, blurring the lines between the two landscape eras.

Programs on historical figures, landscape design, horticulture, and funerary art can promote a sense of community pride and enhanced stewardship of historic cemeteries. Photo by Vine Lake Preservation Trust.



Photos: Whipple-Beal Fence



The Whipple Beal cast iron fence is 20' wide on each side and 15' long front and back. The fence is comprised of ten sections made of fluted posts, rails and decorative medallions. The medallions depict lambs resting under weeping willow trees, a traditional theme in many cemeteries of this era. There are 62 medallions and 11 posts, each set on a granite base.

The majority of the posts are being held up by wooden 2x4's set into the ground adjacent to the posts. The posts are attached to the 2x4's with wire. The majority of the posts are no longer plumb and several of them have twisted.





The iron is extremely corroded and rust covers at least 90% of the surface, which is pitted and still actively corroding.



Several areas have corroded completely through and there is a significant amount of rust and loss of detail on the lower portions of the posts, medallions and lower rails.



The fence was originally painted black, and the majority of it has deteriorated. The fence is dirty and green biological growth is visible.



Detail: Corroded attachment of post to stone.



Detail: Corroded lower railing.



Of the eleven posts, eight are missing some or all of the finial sections. Two of the medallions are missing parts.





Detail: Wire holding posts to medallions.



Detail: Degraded iron bolt which held medallion to the upper rail.

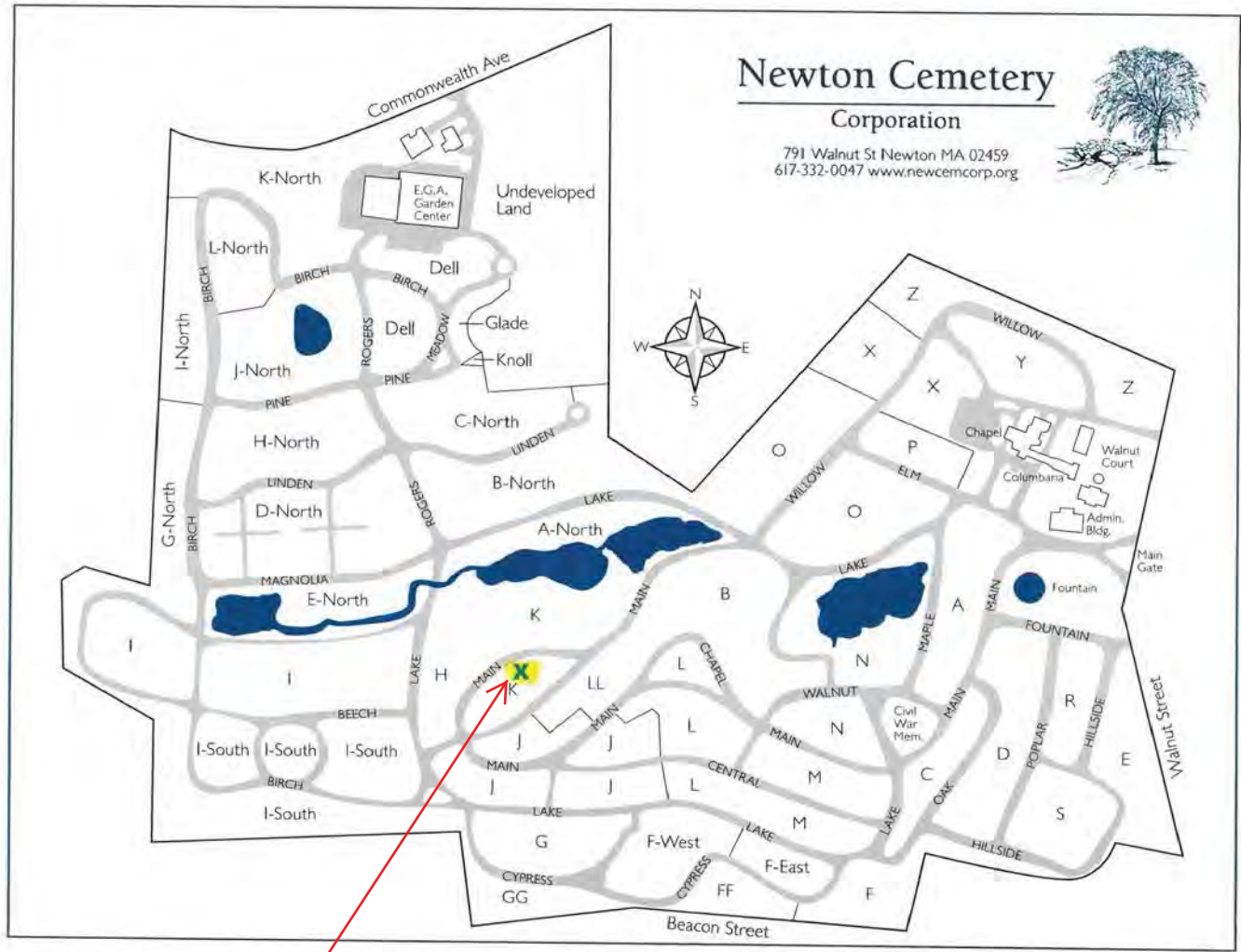


The headstone of Jessie Annie Whipple, the 1st burial at Newton Cemetery.



Headstones of Orrin Whipple (lot owner) and his wife, Emeline Whipple, the parents of Jessie Annie Whipple.

ATTACHMENT A-2: MAPS-CEMETERY MAP



Newton Cemetery
Corporation

791 Walnut St Newton MA 02459
617-332-0047 www.newcemcorp.org



Location of Whipple/Beal Fence

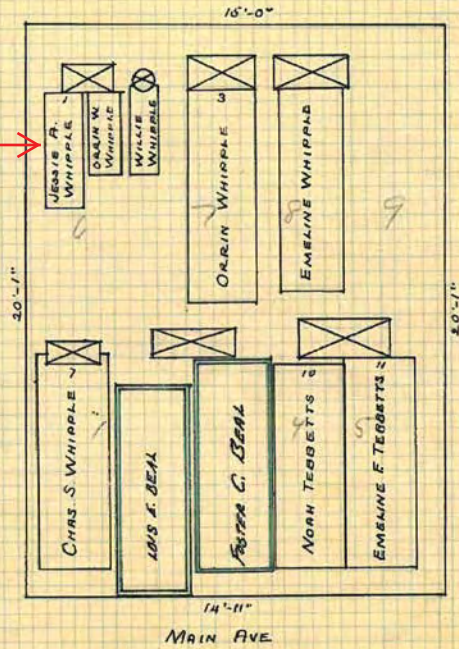
ATTACHMENT A-2: MAPS-WHIPPLE/BEAL LOT CARD

Name WHIPPLE ORRIN

Lot No. 154 SECTION K

500 LEGACY
P.C. EX III Pg. 179

Newton Cemetery's
1st Burial



3-93

ATTACHMENT C-1: HISTORIC SIGNIFICANCE

1: Analysis of Historic Significance

Analysis of Historical Significance

The cast iron fence surrounding what is known as the Whipple/Beal lot at Newton Cemetery is historically significant for the following reasons:

1. It surrounds the lot that contains the first burial at Newton Cemetery
2. It is the last remaining fence of any kind in the Cemetery
3. It is representative of a "fashion" popular in the history of garden-style cemeteries like Newton

According to the 1868 City of Newton Directory, "At the time of the first burial, Newton Cemetery was comprised of thirty acres and a 300 foot lot, complete with stone posts at each corner could be had for \$100." Lot delineation often took the form of stone posts, or stone flush markers sometimes marked with the initial of the family surname (many of which can still be found on the grounds), but could also be done with marble or granite curbing, wrought or cast iron fencing, or a combination of both.

Blanche Linden-Ward notes in "Silent City on a Hill" that early cemeteries used iron fences to protect monuments on family lots from grazing animals, but the use of fences to enclose family lots was also part of a Victorian-era movement around the "domestication" of death. This movement saw the beliefs and customs around death and the after-life become more sentimentalized rather than feared, even to the point of using family lots in the new garden-style cemeteries as outdoor "rooms" where family and friends could gather. It was not unusual to see cast iron furniture set on a lot for just that purpose.

The Whipple/Beal fence surrounds the family lot that contains the remains of the first person buried at Newton Cemetery. The infant daughter of Orrin and Emmeline Whipple, Jessie Annie, died of cholera infantum at 3 months old and was buried in October 1856. Her brother Orrin died nearly a year later at 2 months of the same disease. Their brother Willie lived only 12 hours when he was born in 1861 and is also buried in the family lot.

While this fence does surround the first burial at Newton Cemetery, it is likely that it was put into place years after the burial. Even so, it is the last remaining fence of any kind at Newton and as such is an important feature of landscape and commemoration history. Currently the lot is a regular stop on the Cemetery history tours that are given publicly and privately. If it were to be removed because it could not be restored, there would be no visual evidence of this past custom to share with the visiting public.

2: Description of Historically Significant Features

Description of Historically significant features

The features of this particular cast iron fence, while common, are also representative of cemetery iconography popular since Grecian times, but brought into heavy rotation by the Victorian-era sentimentalization of death. The individual elements that can be singled out are:

Willow trees – Symbolizes sorrow or mourning. On this fence, the tree can be interpreted as God's protection for the lamb (child) which is sitting underneath.

Sitting lambs – in the Christian religion the lamb represents Christ, the Redeemer. Lambs also represented innocence and virtue. The fact that there are three small children buried here makes these symbols completely appropriate.

Fleur-de-lis – the lamb sits atop a fleur-de-lis, representing the mother

Flowers – in general, representing the fragility of life, the rose for innocence

Acanthus leaves – seen at the bottom of the corner posts, the acanthus leaves are one of the most popular symbols seen in cemeteries, representing the Heavenly garden awaiting the deceased.

3: Summary & Justification of Proposed Treatment

Two of the four recommended treatments of “the federal *Standards* for historic buildings and landscapes” listed in the instructions will be employed to some extent. “Rehabilitation” will be utilized due to the extent of deterioration of the fence and its components. “Reconstruction” will be utilized for those components that have deteriorated beyond rehabilitation, or are missing completely. These treatments are noted in the summary below with the designated number next to the appropriate items of work.

1. Rehabilitation
2. Reconstruction

Newton Cemetery Corporation has discussed the project and anticipated budget with qualified companies that specialize in this type of restoration. After an on-site assessment of the fence, the preliminary recommended scope of the project is outlined as follows:

Prior to the start of any work, the current condition of the fence will be documented in writing and with high quality digital images (and 3D Laser Scan) according to AIC (American Institute for Conservation for Historic and Artist Works) standards. The sections of fence and posts will then be labeled, carefully dismantled and transported to the shop/studio of the designated, pre-qualified conservator for the restoration to take place in a controlled setting. An appropriate manner of cleaning will be used to remove dirt, loose paint and rust from all parts of the fence.¹ Components that are missing or too damaged to be repaired will be cast from molds taken from existing elements.² All fence components will receive an application of an appropriate paint system¹ before being re-assembled and transported to the site at the cemetery for final assembly on the existing granite footings.

The anticipated timeframe of work is estimated at 10-14 weeks.

4: Newton Historical Commission Review

(see Attachment C-3)

Descendant List of Orrin Whipple

25 April 2017

1-Orrin Whipple (15 Apr 1818-4 Apr 1882)
 +Emeline Winslow (4 Nov 1820-)
 2-Emeline Frances Whipple (4 Feb 1844-30 Oct 1904)
 +Noah Tebbets (11 Sep 1844-)
 2-Frederick Henry Whipple (23 Jan 1845-)
 +Angenette Miller (20 Jun 1837-)
 2-Harriet Adelaide Whipple (28 Oct 1847-)
 +George Henry Cushman (22 Jun 1846-)
 3-Harriet Adelaide Cushman (27 Mar 1868-)
 3-Mildred Whipple Cushman (16 Sep 1869-)
 3-George Henry Cushman (14 Aug 1871-)
 3-Marion Alice Cushman (1881-30 Mar 1953)
 +Henry Foster "Harry" Beal (12 Aug 1879-15 Aug 1956)
 4-Marjorie Beal (-)
 +Van Boemel (-)
 4-Lawrence Winslow Beal (-)
 4-Foster Cushman Beal (6 Jun 1915-22 Oct 1995)
 +Lois Eliot? (14 Aug 1915-6 Jun 1996)
 5-Eliot Cushman Beal (-)
 +Constance "Connie" Crosbie (-)
 6-Jason Eliot Beal (-)
 6-Katherine E. Beal (-)
 2-Charles Sumner Whipple (6 Nov 1850-)
 +Sarah J. Henderson (-)
 3-Grace M. Whipple (ca 1874-)
 +George E. Duffy (ca 1870-)
 3-Louise F. Whipple (ca 1879-)
 3-Orrin Edward Whipple (26 Sep 1881-11 Feb 1934)
 +Alice Holt Knox (ca 1881-)
 4-Ellen R. Whipple (ca 1905-)
 4-Orrin F. Whipple (ca 1909-1964)
 2-Jessie Annie Whipple (13 Jul 1856-18 Oct 1856)
 2-Orrin Winslow Whipple (6 Jul 1857-10 Sep 1857)
 2-Willie Whipple (30 Mar 1861-31 Mar 1861)
 2-Edward Eleazer Whipple (13 Jul 1863-3 Jan 1956)
 +Addie L. Pierce (15 Jan 1859-28 Jul 1943)

Preparer:

underlined names are buried in the lot



ATTACHMENT C-3

The historic significance of the Whipple Beal Fence was confirmed at the Newton Historic Commission meeting on 9/28/2017. Attached written documentation was received by CPC staff on 24 October 2017.



Setti D. Warren
Mayor

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

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(617) 796-1142
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Barney S. Heath
Director

RECORD OF ACTION:

DATE: **October 6, 2017**

SUBJECT: **Historic Whipple Fence (located in Newton Cemetery, Walnut Street)**

At a scheduled meeting and public hearing on September 28, 2017, the Newton Historical Commission, by a vote 7-0:

RESOLVED to find the historic Whipple fence historically significant for the purposes of CPC funding.

<u>Voting in the Affirmative:</u>	<u>Voting in the Negative:</u>	<u>Abstained:</u>
Nancy Grissom, Chairman		
Mark Armstrong, Member		
Laura Fitzmaurice, Member		
Peter Dimond, Member		
Doug Cornelius, Member		
Jean Fulkerson, Member		
Ellen Klapper, Alternate		

Title Reference:

Owner of Property:

Newton Cemetery
Middlesex (South) Registry of Deeds

Deed recorded at:

Book _____, Page _____

Date _____

Katy Max Holmes, Staff



Setti D. Warren
Mayor

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Barney Heath
Director

September 8, 2017

Community Preservation Commission
c/o Alice Ingerson
Department of Planning and Development
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Dear CPC:

On behalf of the Newton Historical Commission, I am writing to confirm the local historical significance of the Whipple Beal iron fence located in the oldest portion of Newton Cemetery on Walnut Street. This historic cast iron fence with its weeping willow motif was installed in the mid-19th century to enclose the oldest burial in the cemetery, that of the infant Jessie Whipple, and her family plot.

As was noted in the nomination to designate Newton Cemetery for listing on the National Register of Historic Places in 2014, the cemetery's early focus on its landscape was intrinsic to its long-term success, beginning in 1855. For a brief period the Cemetery Corporation allowed low walls, cast iron fencing, and decorative stonework around the monuments, but by 1876 found them to be too intrusive to the overall rural setting. All were removed, with the exception of the low cast-iron fence with a willow motif surrounding the gravesite and those of family members of the oldest burial in the cemetery, that of the infant Jessie A. Whipple. Jessie was the infant daughter of Orrin Whipple, a Newton selectman.

Respectfully,

Katy Hax Holmes
Chief Preservation Planner

Cc: Mary Ann Buras, Newton Cemetery

ATTACHMENT E-1

SITE CONTROL, VALUE & DEED RESTRICTIONS

Newton Cemetery and the Whipple/Beal Lot Representative (Mr. Eliot Beal) understand that a deed restriction will be required if CPA funding is granted for the Whipple/Beal fence restoration project.

Deeds for lots in Newton Cemetery (such as the attached) grant what is referred to as “Rights of Interment” to the cemetery lot owner(s). The Right of Interment is the burial entitlement for a specific location within the cemetery. When purchasing a cemetery space, the *right* to use the cemetery space is being purchased, but the grave or lot remains the property of Newton Cemetery.

Cemetery lot owners are also granted certain rights to erect monuments (or fences, in the case of the Whipple/Beal lot) upon their grave. There are specific regulations pertaining to these rights that depend on a number of factors including grave size and location within the cemetery. Monuments on graves are owned by the lot owners, not Newton Cemetery. As such, maintenance of monuments is executed by the lot owner. In an historic cemetery, there are circumstances where older, historic monuments are no longer being cared for by the family as the descendants have no tie to the original owner or do not have the financial means for proper maintenance of a monument they did not even choose to purchase.

When a monument is in need of care, Newton Cemetery will attempt to notify the descendants. It may be impossible to make contact, and even if made, there may be no interest. In such cases, Newton Cemetery would make a determination on the care of the monument, which depending on the circumstances, could include removal.

ATTACHMENT E-1 Orrin Whipple Deed for the Lot

60
154

Know all Men by these Presents, That the NEWTON CEMETERY CORPORATION, in consideration of *Twenty five* dollars and $\frac{100}{100}$ to them paid by *O Whipple* of *Newton* the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, and convey to the said *O Whipple* the sole and exclusive right of burial, and of erecting tombs or cenotaphs in, and of ornamenting the same, upon such terms and conditions, and subject to such regulations as said Corporation shall prescribe, *one* lot or subdivision situate on the Way called *Main Avenue* in the Cemetery of said Corporation, in Newton, Mass, and numbered *One hundred & fifty four* on the Plan of said Cemetery, which Plan is in the possession of said Corporation for inspection by said grantee and *his* heirs and assigns, at all reasonable times; said lot containing *Three hundred* superficial square feet

TO HAVE AND TO HOLD the aforegranted Premises to the said *O Whipple* *his* heirs and assigns forever; subject, however, to such terms and conditions, limitations, liabilities, and regulations as said Corporation may from time to time prescribe, and in accordance with the statutes which are, or may be, in such case made and provided. [See Statute 1841, chapter 114, &c.

IN TESTIMONY WHEREOF, the said NEWTON CEMETERY CORPORATION have caused these Presents to be signed by their President, and countersigned by their Treasurer, and authenticated by their common seal in duplicate, this *twenty fifth* day of *May* in the year of our Lord one thousand eight hundred and *fifty nine*

Executed and delivered, }
in presence of }

John Ayres,

Henry Bigelow President.
Treasurer.

CPC staff note: As of 25 October 2017, after further consultation with the City of Newton Law Dept., the Newton Cemetery & City staff have agreed to work toward a preservation restriction to be held by the Newton Historical Commission.

MEMORANDUM

TO: Mary Ann Buras, President
Newton Cemetery Corporation

FROM: Barbara H. Carboni, Board of Trustees

DATE: September 20, 2017

RE: Summary of Plan for Preservation Restriction for Whipple/Beale Fence

This Memorandum outlines the Cemetery's plan for obtaining and recording a Preservation Restriction relating to the Whipple/Beal Fence on the Cemetery property. Such Preservation Restrictions are required where, as here, funding is sought under the Community Preservation Act for restoration of historic structures. The goal is a Preservation Restriction conforming to the requirements of G.L. c. 184, s. 31-33¹; granted to an appropriate entity; recorded at the Middlesex Registry of Deeds; and enforceable in perpetuity, or for the longest period permitted by law. The following steps must be taken; note that some steps may be pursued concurrently:

1. Identification of Grantor(s). The Cemetery owns the real property in which the Whipple/Beal family lot is located, and upon which the Whipple/Beal fence stands. The Cemetery is thus "the owner of the land . . . appropriate to preservation of a structure or site historically significant for its architecture, archeology or associations" identified in G.L. c. 184, s. 31 as the party executing (granting; conveying) the preservation restriction. The fence *itself* is owned by descendents of the Whipple/Beal family. The Cemetery must determine, as a legal matter, what permissions must be granted by descendent family members as the fence owners in order for the preservation restriction to be enforceable under G.L.c. 184, ss. 31-33.

Action required: The Cemetery will research this issue and if necessary consult with the Massachusetts Historical Commission (whose approval is required for the preservation restriction to have the benefit of the statute) to determine what rights, if any, must be conveyed

¹ The relevant portion of G.L. c. 184, s. 31 provides:

"A preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or in any order of taking, appropriate to preservation of a structure or site historically significant for its architecture, archeology or associations, to forbid or limit any or all (a) alterations in exterior or interior features of the structure, (b) changes in appearance or condition of the site, (c) uses not historically appropriate (d) field investigation, as defined in section twenty-six A of chapter nine, without a permit as provided by section twenty-seven C of said chapter, or (e) other acts or uses detrimental to appropriate preservation of the structure or site."

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by the fence owners to the Cemetery; or whether the descendent family members would be a "co-grantor" of the preservation restriction.

Action required: Based on a determination of what rights, if any, may/must be granted by the descendant owners of the fence, the Cemetery will draft appropriate documents and work with the owners to execute such documents.

2. Identification of Grantee: For a preservation restriction to have the benefits of G.L. c. 184, s. 31-33, it must be "held by [a] governmental body or by a charitable corporation or trust whose purposes include preservation of buildings or sites of historical significance or of a particular such building or site." G.L. c. 184, s. 32. The Cemetery is in the process of identifying an appropriate Grantee for the preservation restriction. The Cemetery first contacted the City of Newton's Planning Department to inquire whether the City might be able to hold the preservation restriction. The Planning Department advised after consultation with the City's Law Department that Historic Newton would be a more appropriate entity to hold the restriction.

[See CPC staff note on page 1 of this memo.](#)

Action required: The Cemetery will discuss with representatives of Historic Newton whether there is ability and interest to hold the preservation restriction. If this discussion is not fruitful then the Cemetery will identify other potential grantees qualified under G.L. c. 184, s. 32.

3. Drafting of Preservation Restriction. A Preservation Restriction conforming to the requirements of G.L. c. 184, ss. 31-33 must be drafted. The Massachusetts Historical Commission has promulgated a model restriction and there are many good examples on their website.² A Restriction should contain provisions for administration and monitoring, and requiring conformity with the Secretary's Standards for Rehabilitation of Historic Properties

Action required: The Cemetery will draft a Preservation Restriction conforming to the statutes and to guidance provided by the Massachusetts Historical Commission; requiring compliance with the Secretary's Standards; and tailored to the particular circumstances of the Whipple/Beal fence being owned by family descendants while the real property to be encumbered is owned by the Cemetery.

4. Approval of the Massachusetts Historical Commission. For a preservation restriction to have the benefits of G.L. c. 184, ss. 31-33, it must have the approval of the Massachusetts Historical Commission. See G.L. c. 184, s. 32.

Action required: The Cemetery will submit the Preservation Restriction to the Massachusetts Historical Commission for review and approval, and work with representatives of the Commission to modify the Restriction as required.

5. Recording of Preservation Restriction. A Preservation Restriction conforming to the statutes should be recorded in the Middlesex Registry of Deeds upon completion of the project, or at

² I recently drafted a preservation restriction, to be held by a Town, for windows in a Masonic Building, for which the Town had granted CPC funds for restoration. This restriction would serve as a very good model for the Whipple/Beal fence.

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such other time determined to be appropriate by the Cemetery, Grantee, and Massachusetts Historical Commission.

Action required: The Cemetery Commission, in conjunction with the Grantee/holder of the Preservation Restriction, will arrange for recording of the Restriction at the Middlesex Registry of Deeds upon project completion or other appropriate time as determined.

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Professionals capable of performing the Whipple-Beal fence restoration work were consulted about the scope and cost. An independent “cost consultant” was not used to determine the restoration estimate included with this proposal. The following “Proposed Treatment” is Newton Cemetery’s understanding of the restoration work necessary. The development of formal specifications is included as part of the CPA funds requested. The estimate for completing the project design specification was also obtained from professionals who perform this type of work. An environmental mitigation plan and notation of the inclusion of “green” or sustainable features and materials will be part of the scope requirements in the specifications developed for the bid.

Proposed Treatment:

The current condition of the fence will be documented in writing and with high quality digital images according to AIC (American Institute for Conservation of Historic & Artistic Works) standards.

The elements of the fence will then be labeled for future identification and disassembled into sections by detaching the top and bottom rails. The sections will then be placed on custom built pallets and shipped to the conservator’s shop.

The sections will be cleaned to remove superficial dirt, bio-growth and loose paint. They will be further disassembled into their component parts and paint and rust will be removed. Areas too fragile to withstand mechanical cleaning will be cleaned as much as possible and treated with a rust conversion coating.

Areas of thin metal and small holes in the casting will be filled with filler especially formulated for use on cast iron. Missing parts and elements too damaged to repair safely will be cast from molds taken from existing elements. The parts can be fabricated in cast iron. The internal rods that hold the post sections together will be replaced with a compatible metal.

All of the components will be repainted with an easily maintainable paint system. The fence sections will then be reassembled into larger sections, with final assembly on site where the fence will be reset onto the existing granite footings.

All work to be performed in accordance with the Code of Ethics and Standards of Practice of the American Institute for Conservation of Artistic and Historic Works.

Documentation:

High quality digital images will be taken before, during and after the treatment. A written final treatment report will be provided to Newton Cemetery upon completion of the project.

Estimate of Restoration Costs:

Treatment as described above including all labor and materials.....	\$50,000
Contingency (10%)	<u>\$ 5,000</u>
Total:	\$55,000

Design & Specification Costs:

Estimate.....\$ 2,000 - 5,000