

NARRATIVE APPRAISAL REPORT

AND

VALUATION ANALYSIS

RECEIVED

JUN 16 2015

WAYLAND CONSERVATION COMMISSION

PROPERTY

**265 Concord Road
Wayland, Massachusetts, 01778**

DATE OF VALUATION

June 4, 2015

PREPARED FOR

**Wayland Conservation Commission
c/o Brian J Monahan, Conservation Administrator
41 Cochituate Road
Wayland, Ma 01778**

PREPARED BY

**Avery Associates
282 Central Street
Post Office Box 834
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June 12, 2015

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Wayland Conservation Commission
c/o Brian J Monahan, Conservation Administrator
41 Cochituate Road
Wayland, MA 01778

Re: 265 Concord Road
Wayland, MA 01778

Dear Mr. Monahan:

In fulfillment of our agreement, we are pleased to transmit the attached appraisal report detailing our estimate of the market value of the fee simple interest in the above referenced real property. We have personally inspected the property and made investigations and analysis pertinent to the value estimate contained in the accompanying Narrative Appraisal Report.

The subject property is a 9.27 acre parcel of vacant land encumbered by wetlands over approximately 50% of its area. The property is identified as Parcel 58F on Assessor's Map 7. The owners of record of the property are a trust identified in a Declaration of Trust, Book 15949, Page 419 as recorded in the Middlesex South District Registry of Deeds. The Trust acquired this property as a portion of a larger parcel as noted in the deed, Book 15949, Page 429.

The subject lot was created as part of a conservation cluster, Lincoln View Estates, which was approved in 1992 by the town's planning board. The Special Permit is recorded in Book 22680, Page 271 and the lot is shown in detail on Plan 1011 of 1992. Both documents are recorded in the Middlesex South District Registry of Deeds.

Although this parcel was approved as a developable lot originally, environmental conditions and requirements have changed. Analysis of public documents indicates that the probability of residential development of this lot is very low. Our highest and best use analysis the property's highest and best use is for agriculture, enhanced utility, increased privacy, or passive recreation by abutters.

The purpose of this appraisal is to estimate the market value of the subject property "as is" at its highest and best use – for non development purposes. In addition, at your request, the lot is valued subject to a hypothetical condition that it is a buildable lot. The intended user is the Wayland Conservation Commission. The intended use is as an input into the town's decision making regarding purchase of the subject parcel. Therefore, values for two scenarios are estimated in the appraisal process.

Scenario 1: "as is", a non-buildable lot

Scenario 2: subject to hypothetical condition that it is a buildable lot.

Page 2
June 12, 2015
Wayland Conservation Commission
c/o Brian J. Monahan, Conservation Administrator

By reason of our investigations, experience and judgment, and subject to the Assumptions and Limiting Conditions set forth in the attached report, it is our opinion that the market values of the subject property as of June 4, 2015, are:

Scenario 1 "as is", a non-buildable lot \$ 85,000

Scenario 2 Hypothetically as if a buildable lot \$370,000

The value for Scenario 2 is subject to the hypothetical condition that the subject is a buildable lot.

This letter must remain attached to the report, which contains 31 pages plus related exhibits, in order for the value opinion set forth to be considered valid.

Respectfully submitted,



Keith Shoneman, SRA
Massachusetts Certified Residential
Real Estate Appraiser #70844



Jonathan H. Avery, MAI, CRE
Massachusetts Certified General
Real Estate Appraiser #26

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SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

ADDRESS: 265 Concord Road
Wayland, MA 01778

OWNERS OF RECORD: Declaration of Trust dated 12/31/84,
Book 15949, Page 419
Middlesex South District Registry of Deeds
William Barlow and Steven M McInnes, Trustees

DATE OF VALUE ESTIMATE: June 4, 2015

DATE OF REPORT: June 12, 2015

INTEREST APPRAISED: Fee Simple

LAND AREA: 9.27 Acres

IMPROVEMENTS: None - vacant parcel of land.

ZONING: Residence R40/R60

HIGHEST AND BEST USE: Single-Family Residential

ESTIMATE OF VALUE:

Scenario 1	"as is", a non-buildable lot	\$ 85,000
Scenario 2	Hypothetically as if a buildable lot	\$370,000

APPRAISED BY:

Jonathan H. Avery, MAI, CRE
Keith F. Shoneman, SRA
Avery Associates
Post Office Box 834
282 Central Street
Acton, MA 01720

Subject Photographs
265 Concord Road
June 4, 2015, by Keith Shoneman

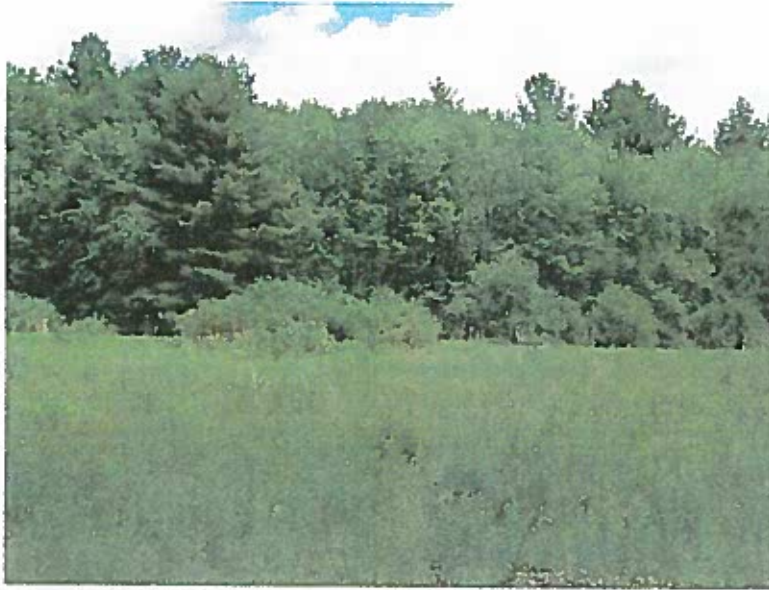


View to the east from Concord Road over the 40-foot access leg into the subject lot.



View of elevation difference between street and subject lot at point of access which is marked by sign. Subject lot at this point lies approximately 10 feet below street level.

Subject Photographs
265 Concord Road
June 4, 2015, by Keith Shoneman



View to the northeast with the wooded wetlands noted at the rear of the photo.



View from center of the lot west towards Concord Road. Residences along Concord Road can be seen in the background of this view.

Subject Photographs
265 Concord Road
June 4, 2015 by Keith Shoneman



View of the center of the lot near where the proposed structure would have been built based on the 1992 plan.



View of vegetation in the interior wetland's area looking south.

NARRATIVE APPRAISAL REPORT

PURPOSE OF THE APPRAISAL: The purpose of this appraisal is to estimate the market value of the fee simple interest in the subject property, both 'as is' and hypothetically as if it were a building lot.

INTENDED USER OF APPRAISAL: Wayland Conservation Commission

INTENDED USE OF APPRAISAL: The intended use is as an input into the town's decision making regarding a potential purchase of the subject parcel.

INTEREST VALUE: Fee Simple.

DATE OF VALUATION: June 4, 2015

DATE OF REPORT: June 12, 2015

SCOPE OF THE APPRAISAL:

Keith Shoneman and Jonathan H. Avery, MAI inspected and photographed the subject property on June 4, 2015. In addition the appraisers:

- examined the property deed, site plan, flood maps, assessors plat maps, zoning requirements, and other appropriate public documents.
- Discussed development requirements with town boards and commissions
- examined all registered document pertaining to the subject property including the master deed, unit deeds, and conservation restriction.
- gathered and analyzed information on comparable sales and listings of residential properties in Concord and similar Middlesex county communities.
- confirmed and analyzed data and considered the application of the three traditional approaches to value.

To develop the opinion of value, the appraisers performed an appraisal process, as defined by the Uniform Standards of Professional Practice. The results of our analysis are reported in the Narrative Appraisal Report format.

HYPOTHETICAL CONDITION:

The highest and best use analysis for the subject property concludes that the subject lot is non-buildable and probable use of the subject lot is for agriculture, enhanced utility, increase of privacy, or passive recreation by abutters. This is based on review of data and public documents over the past 23 years which shows the probability of development of the subject lot is low.

The client of this appraisal has requested two values be developed for the subject property. The first is an estimate of the market value at its highest and best use as noted. This is defined as the "as is" Scenario 1. In addition, the client desires a second value estimate which is subject to the hypothetical condition that the subject lot is a buildable single-family lot. This is defined as Scenario 2. This further assumes that at a future time, a definitive site plan meeting all state and town requirements could be developed.

In summary, the appraisal of the subject lot in Scenario 2 is subject to the hypothetical condition that the subject lot is a buildable single-family residential lot.

EXPOSURE TIME

The Dictionary of Real Estate, 5th Edition, defines *Exposure Time* as:

"The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of appraisal. Exposure time is always presumed to occur prior to the effective date of appraisal" (p 105)

An estimate of exposure time is the time which would have passed between offering the property to the market and conclusion of a sale. This estimate is based on a review of transactions involving similar properties and the time they were exposed to the market. Based on this review, the estimated exposure time for the subject is 3-4 months.

CONSIDERATION OF HAZARDOUS SUBSTANCES IN THE APPRAISAL PROCESS

Under federal and state laws, the owner of real estate which is contaminated and from which there is a release or threatened release may be held liable for the cost of corrective action. A Phase One site investigation is customary business practice. Such an investigation entails a review of the property, its history and available government records to determine if there is reason to believe that contamination may be present.

Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyls, petroleum leakage, agricultural chemicals or urea formaldehyde foam insulation, which may or may not be present on the property, were not called to the attention of nor did the appraiser become aware of such during inspection. The appraiser has no knowledge of the existence such materials on or in the property unless otherwise stated. The appraiser, however, is not qualified to test for such substances. Since the presence of such hazardous substances may significantly affect the value of the property, the value as estimated herein is predicated on the assumption that no such hazardous substances exist on or in

the property or in such proximity thereto which would cause a loss in value. If such substances do exist, then the value as estimated herein will vary dependent on the extent of contamination and the costs of remediation.

The subject property is not currently listed on the List of Confirmed Disposal Sites and Locations (dated May 26, 2015), as published on their website by the Bureau of Waste Site Cleanup, Department of Environmental Protection, Commonwealth of Massachusetts.

DESCRIPTION OF REAL ESTATE APPRAISED:

Property Identification and Legal Description

The subject property is a vacant 9.27 acre parcel of land which has two reduced frontages of 40 feet and 50 feet on Concord Road. The subject lot was created as Lot 20 in Lincoln View Estates, a Conservation Cluster development, under a Special Permit recorded in Book 22680, Page 271 at the Middlesex South District Registry of Deeds. This approved subdivision is shown on Plan 1011 of 1992 as recorded in the Middlesex South District Registry of Deeds.

The owner of Lot 20 is the 1992 trust identified in the Declaration of Trust, Book 15949, Page 419 as recorded in the Middlesex South District Registry of Deeds whose Trustees at the time of its creation were David Finkelstein, Esquire and Paul Doherty. Current Trustees of the trust are William Barlow and Steven McInnis. The trust acquired this property as a portion of a larger parcel as noted in the deed, Book 15949, Page 429.

Listing History:

A review of the listing history since the subject lot's creation in 1992 identifies only one MLS listing of the subject property. The only listing is one which is currently active. The property was listed on September 24, 2014 for a list price of \$400,000. This listing is identified as MLS listing 71748047. It has been on the market for 253 days and no list price change has been noted.

The broker is Thomas Barlow, Hammond Residential, and the listing discloses that the agent is related to the seller. A review with the agent indicates that overall conditions have changed since the lot was originally created and there are no current documents supporting a definitive plan for development. These will be the responsibility of the buyers. Discussions with town officials indicate that the owner has been trying to either develop or sell the lot since 1999. However, review of MLS listings since 1999 did not identify any formal public listings of the subject until the recent listing of September 2015.

Area and Neighborhood Analysis

Wayland is an affluent suburban community in Middlesex County approximately 18 miles west of Boston. Two state numbered highways, routes 20 and 30 traverse the town from west to east and provide good access to interstate 95, the inner technology beltway, and the Massachusetts Turnpike. This interchange is approximately 5 miles to the east. Two other highways, routes 27 and 126 are the main north-south highways through the town. Route 126 provides direct access to the Massachusetts Turnpike in Natick to the south.

The Sudbury River runs essentially north-south for ten miles through Wayland. The vast majority of the marshes and wetlands associated with the river form a portion of the Great Meadows National Wildlife Refuge. In addition, there are numerous other recreational areas within the town including the town beach on Lake Cochituate.

The Wayland Public School system continually ranks among the top school systems in the state and is a major consideration of prospective buyers considering a residential town in this Central Middlesex County area. Its centralized location and good access over the multiple highways through town make it attractive for those employed in the metropolitan area. There are a variety of residential areas in the town with one of the most desirable being in the central Wayland area around Claypit Hill. Northern areas adjacent to Lincoln are some of the newer areas, but more remote from private or public services, including the schools. The southern areas around Commonwealth Avenue and Lake Cochituate are older with many properties being associated with lake communities around the lake and Dudley Pond. New construction in this area generally is less than \$1,000,000.

The main shopping areas in the town are along Route 20 in the more central area of the town. However, just to the south in Framingham and Natick are some of the largest shopping complexes in the state along Route 9. This area is approximately 5 miles to the south. There are very limited public transportation options to surrounding employment and shopping areas; however, there are a few express bus options to Boston.

Neighborhood Analysis:

The subject is in the northern area of Wayland at the intersection of Sherman Bridge Road which runs west into Lincoln and Concord Road, a State-numbered highway. To the west directly across from the subject is a residential area developed primarily in the early 1950's. It has primarily ranch, cape, and colonial style properties with ranches and capes generally below 2,000 square feet and colonials averaging approximately 2,200 square feet of living area. Several of these homes have been expanded and there is a recent rebuild in the neighborhood which sold for \$856,000 and had 3,400 square feet of living area. Properties in this neighborhood are generally in average to good condition and of similar overall quality and appeal.

On Concord Road, both north and south of the subject, development occurred in two main time frames. The early grouping is similar to that of the Red Barn neighborhood and on the west side. Whereas, the eastern side was developed primarily in the 1990's with the predominant style being colonials of greater than 3,000 square feet of living area.

To the north, south, and southwest are the high-valued residential areas along Lincoln Road, Draper Road and the residential development in the Sears Road area. This southern portion is in the Claypit Hill residential area and is serviced by the Claypit Hill Elementary School on Adams Lane. This neighborhood is one of the more desirable areas of the town and includes streets of Plain Road, Sears Road, and Decatur Roads. This area has developed continuously from the 1950's to the 1990's. Pricing typically ranges from \$900,000 to \$1,200,000 with one or two at \$1,500,000 to \$1,600,000. Properties in this neighborhood are generally in average to good condition and of similar overall quality and appeal.

The immediate neighborhood has good access to a range of local shopping in the central area along Route 20, 2.5 miles to the south. Approximately 1.5 miles further south is the Wayland High School complex. Route 2, Concord Road, and Routes 20/126 provide good access to major employment centers surrounding the town in all directions. Overall, the local economic base appears stable and there are no adverse factors noted affecting marketability.

Economic Conditions:

When completing an appraisal of real property it is necessary to have a proper perspective of economic conditions as of the date of valuation. Economic conditions play a significant role in the price paid for real estate at any given time. Since rebounding in 2010/2011, the economy maintained positive growth since 2012 and through 2013 as noted by increases in Gross Domestic Product (*total market value of the goods and services produced by a nation's economy during a specific period of time*). However, in the first quarter of 2014, it declined by 2.1%. This was the result of decreases in investment by industry, private, and non-residential. In addition, the declines in state and local government spending have had a negative impact. Offsetting this somewhat was the slow continued increase in personal expenditures and a steady recovery in the real estate market.

This decline surprised some when issued on May 29, 2014, since the initial estimates had been essentially zero. However, economists anticipated the steady recovery would continue in 2nd quarter and throughout 2014. This was reaffirmed when the 2nd, 3rd, and 4th quarter results were released showing the renewal of positive growth. The first quarter of 2015 produced a positive result, but a low start for the year. The reduction in GDP growth in the first quarter was the result primarily of a downturn in exports and a reduction in state and local government spending.

Gross Domestic Product (GDP) (percent change from preceding period)

	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
2014	-2.1%	4.6%	5.0%	2.5%
2015	0.2%			

There are several primary drivers in the recovery including decline in unemployment, increased consumer confidence, and the stabilization of the real estate market both nationally and in Massachusetts. The consumer confidence index has shown a consistent increase through 2014 from a low of 78.3 in February to high of 93.1 in December. In 2015, it continued its steady increase to 101.3 in March 2015. However, it has declined to 94.3 in April and 95.4 in May of 2015. A peak of 103.8 was noted in January 2015. The decline can most likely be attributed to instability in the world affairs, the stock market and the slow growth of the economy in the first quarter of 2015.

Unemployment has continued its consistent decline from a high of 10% in October 2009 to an average of 5.5% over the first three months of 2015, the lowest in five years which many economists see as an optimum level. Massachusetts which had been consistently 1-2 percentage points below the national rate has shown a rate more similar to the national level during 2014. However, in the middle of 2013, the State actually showed an increase before beginning its downward trend to the national rate. The statewide increase was driven by several factors including reduction in the federal budget which has impacted many federal programs in the state. Since that period, the state level has been equal to or slightly below the federal level. The local market currently continues to show levels approximately 1% below the state wide average.

With the turmoil in the Middle East (ISIS), Iran/Iraq, the Ukraine, and varying oil prices, the financial markets have continued to show significant volatility into the first half of 2015. Overall, however, steady growth had been observed in 2014 with the Dow and Nasdaq showing increases of approximately 8.5% and 14.1% in 2014, respectively. The overall positive growth through 2014 was driven by positive industry results, lower unemployment, and the improving real estate market. However, world affairs continued to create volatility in the first quarter of 2015 and the closing prices in early June showed only 0.4% and 1.8% gains YTD for the Dow and S&P 500. However, Nasdaq continued to show strong growth for the year at 7.0%.

	Closing Price <u>Jan 2, 2014</u>	Closing Price <u>Jan 2, 2015</u>	Closing Price <u>June 4, 2015</u>	% Change YTD in 2015
DowJones Industrial	16,441.35	17,832.99	17905.58	0.4%
Nasdaq	4,143.07	4,726.81	5059.12	7.0%
S&P 500	1,831.98	2,058.20	2095.84	1.8%

One of the major components which have supported growth is the strengthening and turnaround by the real estate market. Although this has significant variability geographically, the overall trend is positive, particularly with respect to sales volumes and new construction. Prior to 2013, the real estate market had continued to decline or at best stabilize. However, prices rebounded through 2013 and inventories reached all-time lows, particularly in the mid-range. This continued into 2014 until the spring when many communities experienced an increase in listings driving the market towards a more balanced level. However, as the year progressed, inventories continued to decline leading to an under-supplied market in most communities. This lower inventory has led to lower sales accompanied by a renewed increase in pricing at the end of 2014 and into 2015.

Local Real Estate Market:

Single Family Market:

The median and average prices in Wayland over the past 12 months have been \$689,000 and \$783,000, respectively. Review of sales showed a consistent increase in 2013 with a decline of approximately 25% seen in 2014 before stabilization has been noted in 2015. The ramp-up in sales in 2013 led to record low inventories of less than 3 months. This low inventory was the primary driver for the lower sales in 2014. Exposure/marketing times were generally stable throughout 2014 at 70-85 days underscoring the under-supplied market.

In contrast, median and average prices have been increasing consistently since the middle of 2013 at approximate rates of 10% for the both median and average on an annualized basis. These increases have been driven mainly by the undersupply situation with bidding being noted on the "move-in" properties which require essentially no work for the prospective buyer. On a broader basis, the Case-Shiller index based on same house sales shows more modest growth of 5%.

In summary, sales have shown a year on year decline driven by the significant ramp up in sales during 2013/2014 which drove the inventory situation to less than 3 months. As a result of the low inventories, the above analysis indicates that prices have appreciated approximately 6% overall on an annualized in the Wayland market over the past 2 years. Exposure and marketing times are approximately 2-3 months in this under-supplied market.

Land Market:

Buildable Lots:

New construction as part of total sales has increased over the past 3 years from 3%-4% in 2012/2013 to 10% in 2014/2015. However, land sales have dropped off from 2012 to 2015 primarily because of lack of supply. Review of the land sales shows approximately 50% of these sales have been older properties which have been demolished and rebuilt.

Overall, the limited sample of 14 sales in the past 3 years limits quantification of price trends. However, data analyzed and published by real estate professionals indicate that land prices follow behavior similar to that of single-family sales, but can lag by 6 months to 1 year depending on the market with prices showing lower overall appreciation than single-family properties. The reverse behavior was noted entering the most recent recession with land prices continuing their upward trend before declining as the full extent of the decline in single-family pricing was noted.

Qualitative analysis of several sales and understanding of this relationship between land and single-family pricing leads to the conclusion that land prices began to appreciate in early 2014 following a period of stabilization. Therefore, for this analysis, it is assumed that land prices were declining or stable through 2013 before beginning to appreciate at an annualized rate of 3% beginning in 2014.

Non-buildable Land:

Review of non-buildable land historically has not shown consistent trends over periods of 2-3 years with values driven more by overall utility to the purchaser. Review of Essex and Middlesex County's non-buildable lot sales activity shows no quantitative trend in sales price. Over a longer term basis of 5-10 years, however, there is a general assumption that prices follow the general economic trends although at a lower rate.

Site Description:

The subject site is a 9.27 acre site created in 1992. The details of the lot are shown on page 4 of Plan 1011 of 1992 as recorded in the Middlesex South District Registry of Deeds. It has two frontages on Concord Road. The one most likely to be developed is the northern most one of 40 feet. The southern access point is 50 feet, but it is at the end of a long narrow leg. The lot is an irregular-shaped lot which is primarily level and open over most of its area. It had formerly been used for agriculture and has been graded so that the field drains to the wetlands which currently are shown to cover approximately 50% of the lot. The eastern portion has a wooded area with typical wetlands vegetation.

Concord Road, however, lies approximately 10 feet above the primary level of the lot. Five lots along Concord to the north and 8 lots to the south have been developed, filled, and gradually sloped down to the subject lot's elevation with access driveways level with the elevation of Concord Road. However, at the northern access point on a fairly shaped curve in Concord Road, there is no fill and the asphalt sidewalk along the road drops down 10 feet to the level of the lot as it parallels Concord Road over a length of approximately 75 feet. There is a sloped dirt wall between the street and the sidewalk.

To develop the lot will require reconfiguration of the sidewalk at this point and significant fill to create a gently sloped driveway exiting from Concord Road that will meet state and local requirements. The driveway will need to be approximately 300 feet in length to enable it to access the most likely location of a residential structure.

In addition to the physical conditions at the street, development of a definitive development plan will require a surveyor to fully survey the lot and delineate the current wetlands. Analysis of data in 1992 and the current MA GIS wetlands change data show a greater amount of wetlands and some perennial streams than those that were noted in the 1992 study. These conditions will impact the location of buffer zones which must be considered in creating a site plan for development.

Town water, gas, and cable are available at Concord Road. The site will be serviced by an on-site septic system that would be required to meet all current state and local requirements. Review of FEMA Flood Map 25017C0388F dated July 7, 2014 indicates that the majority of the lot, particularly near to the northern access point is not in a flood plain. But the southern portion of the lot is impacted by a Zone X flood plain labeled as Hazel Brook Tributary 1 and shown on wetlands mapping as a perennial stream. This flood zone is noted to have a 0.2% annual chance of flooding.

Zoning

The subject parcel was created in 1992 by Special Permit defining Lincoln View Estates, a conservation cluster development. It has two frontages on Concord Road, one of 40 feet and one of 50 feet. The boundary between the R40 and R60 zoning districts passes through the subject parcel with approximately 90% of the lot in the R40 zone and the remainder in the R60 zone. In addition, it is likely that any residential structure built would be within the R40 zone; therefore, the lot would be subject to all minimum yard setbacks and maximum lot coverage area of the R40 District.

Since the subject parcel was created by Special Permit approved by the town's planning board, the lot's use as a single-family residential lot is a legal use.

Taxes and Assessment

The current property owners of record are assessed for real estate property taxes for the year 2014 at an assessed value of \$475,900. The subject property is considered a buildable residential lot for assessment purposes. The total 2015 real estate tax on the property is \$8751.80.

Assessed Value	\$ 475,900
Tax Rate	\$ 18.39
Total Tax	\$ 8751.80

HIGHEST AND BEST USE

The definition of highest and best use can be found in the Addenda to this report.

The process of defining the highest and best use requires a specific, sequential application of four criteria to determine potential uses of the property. After all the criteria have been applied, the single remaining use is the highest and best use. The criteria are:

- Physically possible
- Legally permissible
- Financially feasible
- Maximally productive

Development Issues:

Period 1999-2005:

The subject lot was created in 1992 as one lot of 7 in Lincoln View Estates, a conservation cluster development approved at that time under subdivision regulations of the Town of Wayland. The Special Permit is noted in Book 22680, Page 271 as recorded in the Middlesex County South District Registry of Deeds. Of the 7 lots, 6 on Early Bird Lane were developed at the southern end of the subdivision within the first 2-3 years. The subject lot, Lot 20, had two frontage locations on Concord Road, one with 40 feet and the other with 50 feet of frontage. This was not developed during this period.

One of the Conditions and Limitations referenced on Page 9 of the Special Permit states "no lot shown on the Plan shall be further subdivided". Therefore, although Lot 20, a combination of Lot 20 and 20A, had 9.27 acres, this provision restricted this lot to one single-family residential lot. The plan showing the layout of the 7 lots is recorded as Plan 1011 of 1992 at the Middlesex South District Registry of Deeds. Page 4 of this plan shows the plan of Lot 20 approved by the Planning Board. This plan highlights the known wetlands in 1992, the proposed house location, septic location, and access driveway. In summary, in 1992 when the subject lot was created, a preliminary plan was in place for its development.

Review of public and town records over the normal course of business did not identify any development activities between 1992 and 1999. In 1999, the current owners began the process of creating a definitive plan for development and sought a building permit. A series of decisions by town boards in response to the owner's proposals were made during 1999 and 2000. First, the building department rejected the proposed plan and would not issue a building permit. An appeal to the Board of Appeals supported the decision of the building commissioner. The reasons were that the plan did not adhere to detailed criteria in the Special Permit

The owners indicated that conditions, particularly wetlands delineation had changed, and requested that the Planning Board approve a change in the conditions specified in the original Special Permit. This request was denied. Subsequent to these decisions, several court cases were initiated. Two civil actions in the Land Court in 1999 and 2001 upheld the decisions of the town boards.

The next step in the legal process was an appeal to the Supreme Judicial Court. Following these proceedings, *Westlaw Result* published a summary report of the legal proceedings. This document is public record and filed in the town building department. It summarizes the proceedings between 1999 and the appeal in 2005. In summary, the Supreme Judicial Court upheld the Land Court Ruling. Review of the town records and other public documents during the normal course of business did not identify any additional documentation concerning the development of the subject lot.

Discussions with the listing broker indicated that the lot was listed with full understanding that the purchaser would be responsible for obtaining any permits or approval from town boards concerning future development of the lot.

Physical Issues:

There are several issues related to the physical development of the site. It is a generally level site; however, it is significantly impacted by wetlands and perennial streams. Review of data published in 1992 and current data show the presence and location of these factors has changed. The lot which in 1992 appeared to have *uplands* over approximately 75% now is shown by MA GIS mapping and a 2006 analysis by the town's conservation commission to have *wetlands* covering approximately 50% of the lot. The 50 foot and 100 foot buffers around these physical characteristics significantly limit the placement of an on-site septic system, well, residential structure, and driveway.

Inspection and further analysis indicates the development of the subject is encumbered by additional costs not associated with a typical lot. The typical lot requires only a basic design for an on-site septic system and does not have wetlands or steeply-sloped topography impacting the design of a driveway access or location of the building envelope. The subject, however, requires addressing of three major issues, which will require incremental development costs. The three major areas are:

- Significant fill is required along Concord Road to effect a curb cut from a state numbered highway and an acceptable access driveway slope
- A longer than typical driveway of approximately 350 feet
- Engineering and testing to prepare a site plan that will meet local requirements. This site plan would be significantly impacted by updated wetlands delineation.

Estimates based on the data from the Marshall and Swift Cost Estimation Service and local contractor pricing indicate incremental costs to be approximately \$20,000 over and above that for a more typical lot not encumbered by unique physical conditions. These physical characteristics and the incremental costs will impact both the physical and financial feasibility of development.

Highest and Best Use:

Review and analysis of the development attempts during the period between 1999 and 2005 indicate that it is highly unlikely that the subject property can be developed. Therefore, development is not legally permissible. In addition, the physical characteristics of the lot will require incremental expenses for development compared to a more typical lot. In summary, although the lot can most likely be developed from a physical perspective although at higher costs than typical, this analysis leads to the conclusion that the lot will not meet legal criteria for development. Therefore, the highest and best use of the subject property is as a non-developable lot of 9.27 acres. It is noted that since its creation in 1992, despite repeated attempts which were unsuccessful, the subject lot has been characterized for assessment purposes as a developable single-family lot.

Non-buildable land is a unique and different market from that for building lots. This is due to the many different types of non-buildable land. Abutters are often interested in non-buildable land for the purpose of providing additional land for expansion and utilization for swimming pool, tennis court, equestrian, agricultural and other personal uses. In addition, a conservation group is a common abutter which would have interest in non-buildable land. In some cases a party may be interested in a parcel since it provides them significant incremental value either in its current state or by assemblage with an abutting parcel.

In conclusion, this analysis concludes, that in all likelihood, the lot cannot be developed as a single-family residential property. Therefore, the highest and best use of the subject lot "as is" is for agriculture, enhanced utility, increase of privacy, or passive recreation by abutters.

APPRAISAL PROCESS

The methodology traditionally used for the valuation of real property is derived from three basic approaches to value; The Cost Approach, the Sales Comparison Approach and the Income Capitalization Approach. From the indicated values produced by each of these approaches and the weight accorded to each, an estimate of market value is made. The following is a brief summary of the method used in each approach to value.

The Cost Approach:

The Cost Approach values a property by estimating the cost new of improvements to which is added the value of the land. This amount is then depreciated by the age of the improvements. The summation of these sections is the market value for the combined land and improvements. Land sales, accurate construction costs frequently done by a professional cost analyst, and relatively new improvements are required for this approach.

The Sales Comparison Approach:

Another technique for valuation of a property is the Sales Comparison Approach. The Sales Comparison Approach uses sales of similar properties to compare and contrast with the subject. Comparables inferior to the subject receive positive adjustments; comparables superior to the subject receive negative adjustments. The market indicates what common unit of measuring value should be used and that measurement is applied to the subject.

The Income Capitalization Approach:

Utilizing a property's ability to generate income, appraisers can analyze and convert this income stream into an estimate of value. Many commercial properties are leased in order to derive a stream of income. The Income Capitalization Approach can be used to estimate both the fee simple and fee simple interests in a property. The fee simple and fee simple values can be the same when lease rates are at market rates.

Valuation Methods Used

The client as noted has requested two values be developed for the subject property. The first is an estimate of the market value "as is". The second is an estimate of value subject to the *hypothetical condition* that the subject lot is a buildable single-family lot. This further assumes that at a future time, a definitive site plan meeting all state and town requirements could be developed. As noted, based on available data over the past 23 years, the possibility of single-family development is low.

- Scenario 1: "as is" – non-buildable parcel
- Scenario 2: residential single-family building lot

In both scenarios 1 and 2, the subject parcels are vacant land. Therefore, the sales comparison approach is the primary method of valuation. This method is most commonly used by typical buyers in the market and is considered the most reliable.

In Scenario 1, the parcel is non-buildable. Therefore, comparable sales of non-buildable lots in Wayland and the surrounding area are used as the input to the sales comparison analysis. For Scenario 2, the subject parcel is assumed to be a single-family buildable lot. Therefore, comparable sales of single-family building lots in the local market are used as the input to the valuation process.

The cost approach is not developed for this appraisal since in both scenarios, the subject parcel is a vacant parcel with no improvements. The income approach is not applicable since properties similar to the subject in either scenario are not generally purchased by investors as income property. Currently, there is no active income market noted for similar properties.

SALES COMPARISON DATA ANALYSIS AND VALUATION

Scenario 1: "as is" – Non-Buildable Parcel

In the first scenario, it is concluded the subject lot is a non-buildable lot. This is based on the highest and best use analysis which shows the physical characteristics of the lot including significant wetlands impact and physical access from Concord Road to be two major deterrents to the development of a site plan which will meet state and town requirements. In addition, review of numerous public documents including town records highlights several plans that have been submitted to town boards for approval. All have been rejected as of date of value, including judicial appeals. This data supports the highest and best use conclusion that the lot is a non-developable parcel of land best utilized by abutters for agriculture, enhanced utility, increase of privacy, or passive recreation.

Non-buildable land is a unique and different market from that for building lots. This is due to the many different types of non-buildable land. The major factors of use and utility tend to be determined by the participants. Land with frontage may sell for more, as it presents better access than land-locked land. Dry land tends to sell for more than wetlands or swamp. Lastly, topography and to a lesser extent shape may also impact.

A major factor for conservation groups is proximity to other lands under their stewardship or lands that abut attractive natural phenomenon or wildlife areas. These groups tend to receive access easements across other properties and thus worry less about accessing land-locked parcels.

Abutters are often interested in non-buildable land for the purpose of providing additional land for expansion and utilization for swimming pool, tennis court, equestrian and other personal uses. As noted, a conservation group is a common abutter, which would have interest in non-buildable land.

In some cases a party may be interested in the parcel since it provides them significant incremental value either in its current state or by assemblage with an abutting parcel. For example, a developer may purchase a non-buildable parcel since when assembled with other abutting parcels, it would allow them to further develop the land as residential or for another use which may provide a higher return. Other examples of uses which provide incremental value are agricultural land in comparison to non-buildable wetlands.

Comparable Sales:

Based on the highest and best use analysis, the research for comparable sales focuses on similar sized non-buildable parcels with similar economic value. Since the number of non-buildable sales is very limited, this research expands beyond Wayland and includes a few Essex and Worcester County sales from selected communities. Research of sales over the past 4 years identifies 12 non-buildable parcels that can be considered as comparable sales. Table 1 presents the full matrix of the details of these sales.

These sales range in price per acre from \$2,988 to \$28,154 and size from 1.20 to 20.58 acres. In-depth analysis results in the selection of four comparables that are most representative of the subject parcels. The comparables selected are the best available in our opinion and most able to reflect the subject's market value. Table 2 presents the details of these transactions.

Table 2
Non-Buildable Land Sales

<u>Location</u>	<u>Sale Date</u>	<u>Price</u>	<u>Size Acres</u>	<u>Price/ Ac</u>
Land Sale 1: Parcel 6-6, Wayland	08/28/2013	\$20,000	1.20	\$16,667
Land Sale 2: 724 Great Road, Stow	05/07/2014	\$72,000	8.16	\$8,824
Land Sale 3: Parcel A off Boxmill, Stow	05/12/2014	\$150,000	9.54	\$15,723
Land Sale 4: Parcel 7, Maple St, Stow	02/17/2015	\$50,000	7.60	\$6,580

Land Sales Data Analysis

The Sales Comparison Approach is based upon the principle of substitution, that is, when a property is replaceable in the market, its value tends to be set at the cost of acquiring an equally desirable substitute property assuming no costly delay in making the substitution. Since few properties are ever identical, the necessary adjustments for differences between comparable properties and the subject property must be market based and augmented by the appraiser's experience and judgment.

The next step after identification of the comparable sales is the adjustment of each comparable sale for differences between it and the subject property. If the comparable is inferior to the subject, a positive market adjustment is made to the comparable sale. If the comparable is superior to the subject, a negative adjustment is made.

For this analysis, each sale is considered in comparison to the subject and market adjustments made for location, size, and topography/utility. Research of market data indicates that there is no statistically significant data that shows any trend in pricing over the past 3-4 years for non-buildable parcels. As noted in the section on market analysis, pricing of non-buildable sales is generally not responsive to local economic trends, but more driven by the specific use at time of sale. Therefore, this analysis requires no adjustment of comparable sales for market conditions. Table 3 presents the adjustment grid for subject lot in Scenario 1.

Table 1
Non-Buildable Lot Sale Summary
As of May 2015

Address	Grantor/Grantee	Sale Price	Sale Date	Legal	Map Parcel	Size (acres)	Sale Price per acre	
Parcel 7 Maple Street	Alpha Trust (Deeds) Greystone Painting Corp	\$ 50,000	17-Feb-15	64918/352	R-2-20-7	7.60	\$ 6,579	Parcel located off of Maple Street in southwestern Shaw adjacent to Conservation land and within 200 yards of Bolton. Rear of the lot is wooded uplands, but extensive wetlands and a flood zone across the entry prohibit residential development of lot. No residential abutters have access to uplands portion of the lot significantly limiting utility
Old Bedford Road Lincoln	For Rev Trust 2009 Town of Lincoln Conservation Trust	\$ 148,400	18-Jun-14	63774/41	126-5	5.20	\$ 28,154	Parcel of land located on old cart path. Multiple attempts to secure building rights by using old cart path for frontage. Attempts were not successful. Side of heavily wooded and has some impact of wetlands from Flint's Pond. The wetlands are about 33% of site
Parcel A off Box Mill Road Shaw	Derry Town of Shaw	\$ 150,000	12-May-14	63598/36	U-10-44 and R-22-1A	9.54	\$ 15,723	Heavily wooded parcel which abuts Brookside Cemetery. The property is mostly wooded uplands which may have had value for timbering. Long time Shaw resident is grantor. Town plans expansion of cemetery.
724 Great Road Shaw	Tyler Applefields Farms, Inc	\$ 72,000	7-May-14	63581/395	R3-12-2	8.18	\$ 8,824	Parcel is restricted farmland between a tenant leasing the land and the property owner. An Agricultural Preservation Restriction is recorded in Bk 51388, Page 88 in the MCSRD. Buyers operate adjacent Applefield Farm. Good high traffic location for adjacent farm stand. Sale price negotiated between parties and based on appraisal when APR placed on property in 2008.
Off French Farm Road North Andover	Contemporary Builders Hayes	\$ 44,000	31-Oct-13	13698/102	35-30	3.72	\$ 11,828	Parcel is remainder of land after creation of a subdivision. The site is a backland lot not far from old town center. Site is heavily wooded and has rolling topography. Abutter purchased to expand yard. Property marketed through MLS.
Parcel 6/6 Wayland	Merrill US Fish and Wildlife	\$ 20,000	28-Aug-13	62536/95	6-6	1.20	\$ 16,667	Narrow, rectangular parcel of land at end of Hereford Road. It abuts Great Meadows Wildlife Refuge. This is a wetlands parcel with frontage on Sudbury river. Grantor was an abutter and had a canoe launch on this parcel.
Parcel 7-10 Maple Street Shelborn	Sullivan Dewalt	\$ 45,000	11-Jun-13	61944/307	7-10	2.23	\$ 20,179	This lot does not peric because of large amounts of ledge in area. Does have 243 feet frontage on Maple Street. Major effort was done to get building permit, but not permitted by town. Site slopes steeply up from road up a rocky ledge. Abutter purchased for yard expansion
Map 13, Parcels 62 and 62A Lancaster	Hawkins Town of Lancaster	\$ 61,500	15-Feb-13	50448/236	33 -82382A	20.58	\$ 2,988	Combination of two parcels, small one with 0.58 was wetlands. Larger parcel is uplands. Could not gain building permit for the lot. The site is heavily wooded. Town purchased to protect it from combination with other land and developers
Off Linden Street Berlin	Royal Realty Trust Sudbury Valley Trustees	\$ 45,000	7-Dec-12	50081/251		11.59	\$ 3,883	Wooded site as rolling terrain. No wetlands. Purchased by Sudbury Valley Trustees to included in Wrack Meadow wetlands protected area.
Western Ave and Ames Drive Shelborn	Betzner Cherwin	\$ 90,000	30-Apr-12	58991/192	3-78 & 3-50	4.56	\$ 19,737	Two non-contiguous parcels. A 2.5 acre piece is open field and the other is 2 acres. Both level. Lots non-buildable since they do not peric. Abutter purchased has used for building riding arena. The other is likely to be used for horse grazing
Lot X, 308 Davis Road Bedford	Wilder Town of Bedford	\$ 12,000	30-Aug-11	53370/156	60-04	3.41	\$ 3,519	Elongated parcel adjoining the Clerk Conservation area. This area is primarily uplands with a stream running into with approximately 5-10 foot rise on each side of stream. This landlocked parcel containing the main stream adds 25% additional area to this attractive conservation area in the center of a residential area
87 Depot Road Harvard	Low Dragonback Realty Trust	\$ 50,000	8-Apr-11	47270/39	11-8	9.16	\$ 5,459	This 5 acre parcel purchased by abutter to expand his property and limit expansion of small horse property in front of this lot. Provides greater privacy and possibility to expand the property at 87 Depot Road to a small horse property.

Table 3
Adjustment Grid for Subject Lot
Scenario 1 – Non-Buildable

	265 Concord Road Wayland	Sale 1 Parcel 6-6 Wayland	Sale 2 724 Great Road Stow	Sale 3 Parcel A off Boxmill Stow	Sale 4 Parcel 7 Maple St Stow
Sale Price	—	\$20,000	\$72,000	\$150,000	\$50,000
Land Area (acres)	9.27	1.20	8.16	9.54	7.60
Price per acre	—	\$16,667	\$8,824	\$15,723	\$6,580
Date of Sale	—	28-Aug-13	7-May-14	12-May-14	17-Feb-15
Location	North Wayland Busy Street Adj Conservation	North Wayland Residential	Western Stow Residential Busy Street	Central Stow Residential	Western Stow Residential
Location Adj		0.0%	35.0%	0.0%	30.0%
Size Adj		-40.0%	-5.0%	0.0%	-7.5%
Topography	50% Uplands Level Multiple Wetlands	Level Wetlands	Open Fields Agricultural Level	Wooded uplands	Wetlands Crossing Req'd W'd Uplands
Topography Adj		0%	-30.0%	-15%	0%
Utility Economic Value	Yard Expansion Passive Recreation	Passive Recreation Canoe Launch	Agriculture Restriction	Timbering Value Yard Expansion Cemetery	Inferior Yard Expansion Privacy
Utility Adj		-5%	5.0%	-25%	15%
Net Adjustment	—	-45.0%	5.0%	-40.0%	37.5%
Indicated Price per acre	—	\$9,166.67	\$9,264.71	\$9,433.96	\$9,047.24

Land Sale 1: Wayland – Parcel 6-6

Sold for \$20,000 on 08/28/2013

This wetlands parcel is located in a northern area of Wayland and within ½ mile west of the subject. It is on the Concord River and does potentially provide access to the river. It is adjacent to protected land owned the federal government. Therefore, this sale requires no location adjustment. This lot is a smaller parcel and receives a negative adjustment for its smaller size since market data indicates that price per acre increases as size decreases. It is a level, wetlands parcel and requires no adjustment for topography. Its highest and best use is for passive recreation generally similar to the subject, but it does provide option to access the river. Therefore, this sale receives a negative adjustment for superior utility.

Based on this sale, the indicated value of the subject parcel is \$9,170 per acre.

Land Sale 2: Stow - 724 Great Road

Sold for \$72,000 on 05/07/2014

This Stow sale is in the western area of Stow near Bolton and near the BOSE facility. This location is inferior to the subject's location and it receives a positive adjustment for inferior location. It is a slightly smaller lot and receives a negative adjustment for smaller size since market data indicates that price per acre increases as size decreases. This parcel is primarily an open level, and uplands field. Therefore, it receives a negative adjustment for superior overall topography. This property has an agricultural restriction on it which limits its overall utility as yard expansion. This overall utility is less than that of the subject parcel and it receives a positive adjustment for inferior overall utility.

Based on this sale, the indicated value of the subject parcel is \$9,260 per acre.

Land Sale 3: Stow – Parcel A off Boxmill

Sold for \$150,000 on 05/12/2014

This Stow sale is in the central area of Stow in an overall similar residential area. Therefore, this sale requires no location adjustment. It is a similar sized large lot which requires no size adjustment. It is wooded uplands and receives a negative adjustment for superior topography. Overall its timbering value and value for yard expansion, it was purchased to expand cemetery, is superior to that of the subject and it receives a negative adjustment for superior utility.

Based on this sale, the indicated value of the subject parcel is \$9,430 per acre.

Land Sale 4: Stow – Parcel 7, Maple Street

Sold for \$50,000 on 02/17/2015

This sale's location in a western residential area of Stow is inferior to the subject's location. Therefore, this sale requires a positive adjustment for inferior location. This lot is a smaller parcel and receives a negative adjustment for its smaller size since market data indicates that price per acre increases as size decreases. It has some wooded uplands, but cannot be developed because of major wetlands and flood zone covering the entry access to the uplands. This overall topography is similar to that of the subject and it requires no topography adjustment. There are no residential properties which have access to the uplands. In addition the large wetlands area provides limited access or utility as conservation land. Therefore, its utility and economic value are inferior to that of the subject. Hence, this sale receives a positive adjustment for inferior utility.

Based on this sale, the indicated value of the subject parcel is \$9,050 per acre.

Reconciliation

After adjustment for differences between the comparables sales, the following chart shows the three indicated values for the subject lot in Scenario 1 on a price per acre basis.

<u>Location</u>	<u>Size Acres</u>	<u>Indication of Value</u>
Land Sale 1: Parcel 6-6, Wayland	1.20	\$9,170
Land Sale 2: 724 Great Road, Stow	8.16	\$9,260
Land Sale 3: Parcel A off Boxmill, Stow	9.54	\$9,430
Land Sale 4: Parcel 7, Maple St, Stow	7.60	\$9,050

In developing the estimate of value, consideration is given to who the most likely buyer would be and the sales most similar to subject parcel. All of the comparable sales receive consideration with Sale 4, the most recent sale, receiving greatest weight. Sales 1 and 2 receive the next greatest weight with Sale 1 being within ½ mile of the subject and Sale 2 having the least net adjustment. Therefore, the estimated value of the subject on a price per acre basis is \$9,200.

Based on the sales comparison approach and this analysis, the estimated market value of the subject parcel as a non-buildable parcel is \$ 85,000.

$$\$9,200 \times 9.27 \text{ acres} = \$85,284 \text{ (rounded to } \$85,000\text{)}$$

Therefore, it is our opinion that the estimated market value of the subject property “as is” in Scenario 1 as non-buildable, as of June 4, 2015, is \$85,000.

SALES COMPARISON DATA ANALYSIS AND VALUATION

Scenario 2 – Residential Building Lot

Overview:

In the second scenario of this analysis, it is assumed the subject lot is a single-family residential building lot. This is based on the *hypothetical condition* that a development plan can be created in the future that will meet the legal, physical, and financially feasible requirements for development. This includes obtaining approval of all appropriate town boards, which as detailed above has failed on several occasions at all levels – including judicial appeal.

The sales comparison approach is based upon the principle of substitution, that is, when a property is replaceable in the market, its value tends to be set at the cost of acquiring an equally desirable substitute property assuming no costly delay in making the substitution. Since few properties are ever identical, the necessary adjustments for differences between comparable properties and the subject property must be market based and augmented by the appraiser's experience and judgment.

Comparable Sales:

Research of lot sales in Wayland over the past 3 years identifies 14 sales with a price range of \$175,000 to \$920,000. The largest size lot of these is 5.1 acres. Table 4 presents the details of these Wayland sales. Review of these sales identifies 4 in the lower-valued Dudley Pond area and having less than 0.7 acres. This analysis eliminates these sales from further consideration as comparable sales.

Since there were limited large size sales in Wayland, the research expands to include the adjacent towns of Lincoln and Sudbury with similar overall demographics. This expanded research identifies 4 other larger lot sales. All are above \$600,000 and range up to \$950,000. Analysis shows all these sales to be very high quality estate lots in high-valued neighborhoods and far superior to the subject in overall quality and appeal.

One other sale to be noted is the Sale at 5 Appletree Lane in northern Wayland. This 1.38 lot sold for \$700,000 with the similar sized adjacent lot selling for \$550,000. The latter sale is on the corner and less private than the higher priced sale. This higher priced sale, while also being more private, is adjacent to a large estate property with an 18,000 square foot residence and open fields providing it superior pastoral views. In summary, these sales over \$600,000 were significantly superior to the subject property, which eliminates them from further consideration as comparable sales.

In-depth review of the remaining 9 sales identifies 5 sales as the best available and most able to reflect the subject's market value. These sales range in price from \$246,000 to \$555,000 and have land areas ranging from 0.83 to 3.68 acres. Table 5 presents the details of the 5 comparable sales.

Table 5
Comparable Buildable Lot Sales

<u>Location</u>	<u>Sale Date</u>	<u>Price</u>	<u>Size in Acres</u>
Land Sale 5: 1 Wildwood Road	07/26/2013	\$432,000	2.74
Land Sale 6: 12 Pheasant Run (4 Saddle)	01/17/2013	\$475,000	1.07
Land Sale 7: 50 Red Barn Road	11/08/2012	\$307,000	0.83
Land Sale 8: 9 Reservoir Road	05/31/2012	\$500,000	3.68
Land Sale 9: 1 Appletree Lane	10/22/2014	\$550,000	1.38

Land Sales Data Analysis

The next step after identification of the comparable sales is the adjustment of each comparable sale for differences between it and the subject property. If the comparable is inferior to the subject, a positive market adjustment is made to the comparable sale. If the comparable is superior to the subject, a negative adjustment is made. Table 6 presents the adjustment grid for the subject lot in Scenario 2.

Table 4

Land Sales in Wayland May 2012 through May 2015

ADDRESS	GRANTOR GRANTEE	SALE PRICE	DATE OF SALE	MAP PARCEL	REGISTRY REFERENCE	LAND		COMMENTS	ZONING
						AREA (#F)	AREA (AC)		
Active Listings									
285 Concord Road	1992 Trust	\$ 400,000	07-056		1594/9/429	403,801	9.27	This a lot significantly encumbered by its wetlands. The buffer zone created by the multiple dispersed wetlands significantly limits placement of residential structure, well, and septic system. In addition, it requires significant driveway construction costs compared with typical lot.	Residential R40 40,000sf / 180 ft
10 Fiddlehead	10 Fiddlehead LLC	\$ 600,000	19-040		36045/139	74,331	1.71	This level lot in the attractive Clapton Hill residential area is lightly wooded and near to the Clapton Hill elementary school.	Residential R60 60,000sf / 210 ft
Lot 148 Concord Road	Egri/Schneider	\$ 275,000	10-059		LC1037/09	47,480	1.09	This is a narrow, wooded site which is steeply sloped up from the street. It has an old structure on it which will need to be demolished. Plan in place for septic at the rear of the lot.	Residential R40 40,000sf / 180 ft
Sales									
87 Lincoln Road	Hazelbrook RT Enters/Tanga	\$ 920,000	18-May-2015	08-012A	66379/265	222,155	5.10	Large wooded estate lot on plateau at top of hill. Property access over common driveway accessing 3 properties. Common driveway primarily on this property.	Residential R60 60,000sf / 210 ft
1 Appleton Lane	Boulder Appletree LLC The Charles Co, LLC	\$ 555,000	22-Oct-2014	05-013	64387/180	60,000	1.38	Level lot in attractive North Wayland area near to high-valued Lincoln/Wayland residential areas. Adjacent to 10 acre estate with 18,000 sf residence and 1,700 sf guest house. This lot is on corner and less private than adjacent lot at 5 Appletree.	Residential R60 60,000sf / 210 ft
5 Appletree Lane	Boulder Appletree LLC Cooper	\$ 700,000	17-Oct-2014	05-012	64382/590	60,436	1.39	Level lot in attractive North Wayland area near to high-valued Lincoln/Wayland residential areas. Adjacent to 10 acre estate with 18,000 sf residence and 1,700 sf guest house.	Residential R60 60,000sf / 210 ft
3 Chestnut Run	Schiffeld New Wampum Realty	\$ 175,000	4-Mar-2014	46B-046	63335/370	5,475	0.13	Small lot in Dudley Pond neighborhood, a low valued single-family residential neighborhood.	Residential R20 20,000sf / 120 ft
9 Parkridge Road	Flahman New Wampum Realty	\$ 315,000	20-Sep-2013	46D-097	62661/109	21,520	0.49	Existing house demolished and new 4-bedroom, 3200 sf house built. Sold for \$902,812 on 05/27/2014.	Residential R20 20,000sf / 120 ft
1 Wildwood Road	30 Standish RT KeyStone Custom Builders	\$ 432,000	26-Jul-2013	20-018	62319/186	118,242	2.74	Attractive corner lot in high-valued neighborhood in eastern Wayland near to commuter routes. Near to numerous equestrian trails in the area.	Residential R60 60,000sf / 210 ft
12 Pleasant Lane (4 Saddle Lane)	Sacra Nominee Trust Sundberg	\$ 475,000	17-Jan-2013	44-29D	LC1429/118	46,608	1.07	Generally level lot in a subdivision of high valued properties in the northwest of Wayland. Property at 1 Pleasant Lane is new and sold at \$1,496,516 on 03/26/2013.	Residential R40 40,000sf / 180 ft
140 (lot 2) Old Connecticut Path	Nantfield Joyce	\$ 248,000	28-Dec-2012	34-006A	60656/315	78,843	1.81	Lot 2 was created by ANR subdivision. Near Shaw Road on north side. The lot is at a low visibility corner and falls off steeply at back.	Residential R60 60,000sf / 210 ft
20 Parkridge Road	Kelsoe 24 Estes Street LLC	\$ 245,000	28-Nov-2012	50-077	60587/218	28,314	0.65	Existing house demolished and new 4-bedroom house built. Sold for \$715,975 on 09/05/2013.	Residential R20 20,000sf / 120 ft
50 Red Barn Road	Pryor Family Trust Logan	\$ 307,000	6-Nov-2012	04-039	60446/30	36,155	0.83	Existing house demolished and new 4-bedroom, 3400 sf house built. Sold for \$656,000 on 04/25/2014.	Residential R40 40,000sf / 180 ft
30 Old Connecticut Path	Rosevelt/Gifford 30 Old Connecticut Path LLC	\$ 400,000	12-Oct-2012	30-061	60228/412	59,677	1.37	Open level lot in area of larger colonial properties. In eastern portion of Wayland with good access to Route 20 and Interstate 95. Town approvals complete. Lot previously purchased June 2011 for \$408,000. Approvals and site work done subsequent to purchase.	Residential R40 40,000sf / 180 ft
22 Plain Road	Corn New Wampum Realty	\$ 403,000	10-Aug-2012	24-128	59729/518	34,848	0.80	Lot on a curve of Plain Road sits below street level and falls off steeply in the back to wetlands. Limited utility and new structure will be close to street. Existing house demolished and new 4-bedroom, 3000 sf house built. Sold for \$969,900 on 10/16/2013.	Residential R30 30,000sf / 150 ft
9 Reservoir Road	Moon Hicklin/Phike	\$ 500,000	31-May-2012	44-112	59196/245	160,301	3.68	Waterfront property on reservoir Old Wayland Reservoir providing quality views and recreational boating for small boats.	Residential R60 60,000sf / 210 ft
151A Pelham Island Road	LaLoie Brotherstone Development LLC	\$ 400,000	25-May-2012	27-12 and 27-13	59160/287	43,560	1.00	Lot A created by a redrawing of property lines to redefine two lots, one having a duplex structure and the other this vacant lot. Property falls within flood zone.	Residential R40 40,000sf / 180 ft

Table 6
Adjustment Grid for Subject Lot
Scenario 2 – Buildable Lot

	Subject	Sale 5	Sale 6	Sale 7	Sale 8	Sale 9
	265 Concord Road	1 Wildwood	12 Pheasant Run	50 Red Barn Road	9 Reservoir	1 Appletree Lane
	Wayland	Wayland	Wayland	Wayland	Wayland	Wayland
Sale Price		\$ 432,000	\$ 475,000	\$ 307,000	\$ 500,000	\$ 555,000
Date of Sale		26-Jul-13	17-Jan-13	8-Nov-12	31-May-12	22-Oct-14
Date Valuation	6/5/2015					
Market Condition Adj		\$ 18,000	\$ 20,000	\$ 13,000	\$ 21,000	\$ 11,100
Location	North on Busy Street Setback for privacy	Superior Private Neighborhood Corner lot Claypit	Superior Private Neighborhood Corner lot	Inferior Neighborhood Less Privacy	Superior Private Neighborhood Corner lot	Superior Private Neighborhood Corner lot Adjacent Lincoln
Location Adj		-10.0%	-20.0%	10.0%	-10.0%	-30.0%
Waterfront	N	N	N	N	Y	N
WtrFrt Adj		0.0%	0.0%	0.0%	-10.0%	0.0%
View	Open Fields Rear of Properties Woodlands	Superior Residential	Superior Residential	Inferior Residential	Superior Over pond Private	Superior Residential
View Adj		-5.0%	-5.0%	5.0%	-7.5%	-5.0%
Land Area (acres)	9.52	2.74	1.07	0.83	3.68	1.38
Size Adj		\$ 17,500	\$ 25,000	\$ 27,500	\$ 15,000	\$ 25,000
Topography Privacy and Utility	Level 75% Uplands Wetlands limit placement	Superior Uplands Level	Superior Uplands Level	Superior Uplands Level	Superior Wooded Uplands	Superior Uplands Level
Topography Adjustment		-3.0%	-3.0%	-3.0%	-3.0%	-3.0%
Demo Rqm't	None	None	None	Yes	Yes	None
		\$ -	\$ -	\$ 5,000	\$ 5,000	\$ -
Engineering Site Preparation	Atypical Steeply sloped, long access	Typical	Typical	Typical	Long Driveway	Typical
		\$ (20,000)	\$ (20,000)	\$ (20,000)	\$ (15,000)	\$ (20,000)
Net Percent Adjustment	-----	-18.0%	-28.0%	12.0%	-30.5%	-38.0%
Net Percent Adj (dollars)		\$ (77,760)	\$ (133,000)	\$ 36,840	\$ (152,500)	\$ (210,900)
Total Dollar Adjustment		\$ (62,260)	\$ (108,000)	\$ 62,340	\$ (126,500)	\$ (194,800)
Adjusted Price	-----	\$ 369,740	\$ 367,000	\$ 369,340	\$ 373,500	\$ 360,200

Market Conditions:

As noted in the section on market analysis, land sale prices began to show appreciation beginning in 2014 which lagged the appreciation in single-family pricing. Therefore, all sales receive a market adjustment of 3% on an annualized basis beginning in 2014.

Excess Land Adjustment:

As noted, there are no comparable sales on large lots as big as the subject. However, analysis of historical data on excess land developed over the past two years in towns with good comparability to the subject lead to an estimate of value for excess land. This analysis indicates excess land between 1 and 3 acres is valued at \$5,000 per acre and that above 3 acres total is valued at \$2,500 per acre. Therefore, each sale receives a \$5,000 per acre adjustment for excess acreage below a total of 3 acres. Subsequently, for additional excess land, each comparable receives a positive adjustment for \$2,500 for excess acres between 3 and 10 total acres.

Engineering and Driveway Adjustment:

As noted in the highest and best use section of the report, the development of the subject is encumbered by additional costs not required for development of a typical lot. The typical lot requires only a basic design for an on-site septic system and does not have major wetlands impacting the design for driveway access or location of building envelope. It is assumed based on available data all lots require similar costs for design of a typical on-site septic system. The subject, however, requires consideration of three major areas which require incremental development costs. The three major areas are:

- Significant fill along Concord Road to effect a curb cut from a state numbered highway and acceptable sloped driveway access
- A longer than typical driveway of approximately 350 feet
- Engineering and testing to prepare a site plan that will meet local requirements. This site plan is significantly impacted by updated wetlands delineation.

Estimates based on the data from the Marshall and Swift cost estimation service and local contractor pricing indicate incremental costs to be approximately \$20,000.

Trucking in clean fill, approximately 750 yards	\$ 7,500
Installation and paving of 350 foot driveway	\$ 7,500
Engineering, testing, and creation of site plan	<u>\$ 5,000</u>
Total	\$20,000

Based on this analysis, sales 1, 2, 3, and 5 all receive a negative adjustment of \$20,000 to account for the superior characteristic of their requiring more typical site development costs. Sale 4 which also requires a longer driveway receives a negative \$15,000 adjustment.

Additional Adjustments:

Land Sale 5: 1 Wildwood Road

Sold for \$432,000 on 07/26/2013

This sale is in a high-valued eastern neighborhood near to multiple equestrian trails and the town of Weston. This location is superior to the subject's northern residential area. Therefore this sale receives a negative adjustment for superior location. The overall view of woodlands and high-valued residential properties is superior to the subject's view. Therefore, this sale receives a negative adjustment for its superior view. It receives a negative adjustment for superior rolling uplands topography and requires no adjustment for demolition since it is a vacant lot.

Based on this sale, the indicated value of the subject lot is \$370,000.

Land Sale 6: 12 Pheasant Run

Sold for \$475,000 on 01/17/2013

This sale in northern Wayland approximately 1.5 miles southwest of the subject is in a higher-valued residential area with typical neighborhood characteristics. This location is superior to the subject's and it receives a negative adjustment for superior location. It has a superior residential view and receives negative adjustment for this superior view. It has superior level uplands topography and receives a negative adjustment for this superior topography and utility. It does not require demolition; therefore, it requires no demolition adjustment.

Based on this sale, the indicated value of the subject lot is \$367,000.

Land Sale 7: 50 Red Barn Road

Sold for \$307,000 on 11/08/2012

This lot is within ½ mile of the subject in the neighborhood just west of the subject property. Therefore, this sale requires no overall location adjustment. However, the subject is a more private location while this sale is within an older, lower-valued neighborhood and has less overall privacy. Therefore, this sale receives a net positive adjustment for inferior location. The overall view is inferior to the subject's view and it receives a positive adjustment for inferior view. It is a superior lot uplands lot; therefore, this sale receives a negative adjustment for superior topography. It was purchased with older house on it and required demolition prior to redevelopment. Therefore, this sale receives a positive adjustment for requiring demolition, an inferior characteristic compared with the subject.

Based on this sale, the indicated value of the subject lot is \$369,000.

Land Sale 8: 9 Reservoir Road

Sold for \$500,000 on 05/31/2012

This lot is in the southeastern corner of Wayland within an older neighborhood of primarily contemporary dwellings. However it is at the end of a very private cul d'sac and has peaceful views over the old Wayland Reservoir. This overall location is superior to the subject's location and it receives a negative adjustment for its superior location. It has waterfront on the reservoir and has superior views over the water.

Therefore, this sale receives negative adjustments for superior view and presence of waterfront. It is a superior lot uplands lot; therefore, this sale receives a negative adjustment for superior topography. It was purchased with older house on it and required demolition prior to redevelopment. Therefore, this sale receives a positive adjustment for requiring demolition, an inferior characteristic compared with the subject.

Based on this sale, the indicated value of the subject lot is \$374,000.

Land Sale 9: 1 Appletree Lane

Sold for \$550,000 on 10/22/2014

This lot is in one of the higher valued small residential areas of northern Wayland adjacent to the town of Lincoln with good access to major commuter routes. This location and view of estate properties is superior to that of the subject. Therefore, this sale receives a negative adjustment for both superior location and view. It has superior level uplands topography and receives a negative adjustment for this superior topography and utility. It does not require demolition; therefore, it requires no demolition adjustment.

Based on this sale, the indicated value of the subject lot is \$360,000.

Reconciliation

After adjustment for differences between the comparable sales, the following chart shows the five indicated values for the subject lot in Scenario 2 based on the hypothetical condition that the lot is a single-family buildable lot.

<u>Location</u>	<u>Size in Acres</u>	<u>Indicated Value</u>
Land Sale 5: 1 Wildwood Road	2.74	\$370,000
Land Sale 6: 12 Pheasant Run (4 Saddle)	1.07	\$367,000
Land Sale 7: 50 Red Barn Road	0.83	\$369,000
Land Sale 8: 9 Reservoir Road	3.68	\$374,000
Land Sale 9: 1 Appletree Lane	1.38	\$360,000

In reconciling to an estimate of value, all sales receive consideration with sales 1 and 3 receiving greatest weight having the least net adjustments. Therefore, based on the sales comparison approach and this analysis, the estimated market value of the subject lot under the hypothetical condition that it is a buildable single-family lot in Scenario 2 is \$370,000.

Therefore, it is our opinion that the estimated market value of the subject property *hypothetically as if it were a residential building lot* in Scenario 2 as of June 4, 2015 is \$370,000.

This appraised value is subject to the *hypothetical condition* that the subject lot is a single-family buildable lot. It is further assumed that that a residential development plan for the subject lot can be created that will meet all state and local requirements for a building permit, which as detailed above, has failed on several occasions at all levels – including judicial appeal.

RECONCILIATION AND VALUE CONCLUSION

The subject is a 9.27 acre parcel including approximately 50% level, open uplands and 50% vegetated/wooded wetlands. This lot's development potential is significantly encumbered by the multiple areas of wetlands which create 50 foot and 100 foot buffer zones which would limit the placement of a residential structure. In addition, it will require incremental expenses for development compared to a more typical lot since significant fill and a long driveway will be needed to access the potential area for building a structure.

The subject lot was created as part of a cluster development approved by a Special Permit issued by the planning board in 1992. The recorded plan includes a preliminary site plan for the subject lot. All of the other lots created were developed within a period of several years. However, the subject lot was retained as a vacant lot.

In 1999, a process to create a site plan for development of the subject lot was begun by the owners. Because of changes to state and local requirements including more detailed GIS mapping which showed an increase in location and amount of wetlands on the property, the development plan for the subject lot presented to the town for approval was rejected.

Over the following 7 years, review of public records indicates multiple court cases were brought by the owners to overturn the town's rejection of the development plans. In 2005, the land court upheld the town's process and the denial of a building permit based on the plans submitted. Analysis of available public documents since 2006 and discussions with town officials during the normal course did not identify any further active appeals or legal actions. Therefore, the highest and best use analysis concludes the subject property is a non-buildable parcel.

Discussions with the client resulted in their request that we appraise the property both "as is" and subject to the *hypothetical condition* that the subject lot is developable as a single-family residential lot. Therefore for this analysis, the subject lot is value under two scenarios.

Scenario 1	Value of lot "as is", a non-buildable lot
Scenario 2	Value subject to the hypothetical condition that it is a single-family buildable lot.

For these analyses, both lots are vacant lots with no improvements. Therefore, the sales comparison approach is the superior approach to value for estimating the market value in each scenario. The cost approach is not developed for this appraisal since in both scenarios, the subject parcel has no improvements. The income approach is not applicable since properties similar to the subject in either scenario are not generally purchased by investors as income property. Currently, there is no active income market noted for similar properties.

The sales comparison approach is based on the principle of substitution, that is, when a property is replaceable in the market, its value tends to be set at the cost of acquiring an equally desirable substitute property assuming no costly delay in making the substitution. Since few properties are ever identical, the necessary adjustments for differences between comparable properties and the subject property must be market based and augmented by the appraiser's experience and judgment.

For Scenario 1, research identifies sales of non-buildable lots for use in the sales comparison approach. For Scenario 2, the research focuses on sales of buildable parcels that have similarity to the subject. Applying the sales comparison approach using the comparables identified for each scenario indicates the market value for the subject “as is” to be \$85,000 and its *hypothetical value* as if it were a buildable lot to be \$370,000 subject to the *hypothetical condition* that a developmental plan can be created in the future that will meet all state and local requirements to obtain a building permit, which as detailed above has failed on several occasions at all levels – including judicial appeal..

Therefore, it is our opinion that the estimated market values of the subject property as of June 4, 2015, are:

Scenario 1	“as is”, a non-buildable lot	\$ 85,000
Scenario 2	Hypothetically as if a buildable lot	\$370,000

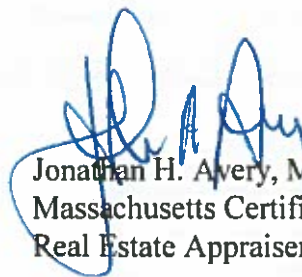
CERTIFICATION

We certify that, to the best of our knowledge and belief,...

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal unbiased professional analyses, opinions, and conclusions.
- we have no present or prospective interest in the property that is the subject of this report, and we have no personal interest or bias with respect to the parties involved with this assignment.
- we have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.
- the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- Mr. Shoneman and Mr. Avery are currently certified under the voluntary continuing education program of the Appraisal Institute.
- we have made a personal inspection of the property that is the subject of this report.
- no one provided significant professional assistance to the persons signing this certification.
- the appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.



Keith F. Shoneman, SRA
Massachusetts Certified General
Real Estate Appraiser #70844



Jonathan H. Avery, MAI, CRE
Massachusetts Certified General
Real Estate Appraiser #26

ADDENDA

SUBJECT DEED

12/31/84 12:21 TR 488 RE 2500

ONE PURCHASE SL. FROM MIDDLESEX, MAY 15 01701

We, David Finkelstein, Esquire of Framingham, Middlesex County Massachusetts and Paul Doherty ^{AKIA Paul M. Doherty} of Woburn, Middlesex County Massachusetts being the Co-Conservators of John P. Murphy under power of appointment of Middlesex County Probate Court # 542438 and by ~~David F. Finkelstein~~ ^{David F. Finkelstein} for consideration paid of One (\$1.00) Dollar grant to David Finkelstein, Esquire of Framingham, Middlesex County Massachusetts and Paul Doherty, Esquire of Woburn, Middlesex County, Massachusetts as Trustees in accordance with Declaration of Trust recorded herewith ^{DATE Dec 31, 1971} with quitclaim covenants the land in Wayland, Middlesex County described as follows:

PARCEL NO. 1

The land with the buildings thereon situate in said Wayland, being shown as Lot 3 on a plan entitled "Plan of Land in Wayland, Mass. owned by Ernest G. Maloney" dated December 20, 1960 by MacCarthy Engineering Service Inc. recorded in Book 9765, Page 231 and bounded and described as follows:

- NORTHEASTERLY: By lot 3A as shown on said plan, Six Hundred Twenty eight and 971/00 (628.97);
- SOUTHEASTERLY: By land now or formerly of Dorothy C. Stone by two courses, measuring Nine Hundred Ninety-nine (999) feet, and Two Hundred Ninety-two and 92/00 (292.92) feet, respectively;
- SOUTHWESTERLY: By land now or formerly of John J. Murphy, Four Hundred Seventy-six (476) feet and;
- NORTHWESTERLY: By land now or formerly of said John J. Murphy One Thousand Three Hundred Thirty-one and 90/00 (1,331.90) feet.

Containing 16 Acres more or less, according to said plan.

Being and intending to convey the same premises conveyed to me by deed of Ernest G. Maloney and Mabel H. Maloney dated February 24, 1961 and recorded with the Middlesex South District Deeds in Book 9779, Page 256.

Subject to Takings, Easements and other encumbrances of record.

PARCEL No. 2

The land with the buildings thereon in Wayland, Middlesex County, bounded and described as follows:

Beginning at a point on Wayland Road, so called, at a ditch at land now or formerly of Andrew Thoma;

Thence running by said ditch on said Thoma land, Six Hundred Sixty (660) feet, more or less, to an iron pipe at the corner of land now or formerly of Harlan H. Collins;

Thence turning and running in an Easterly direction, and bounded by said Collins land, Fifteen Hundred Twenty-seven (1572) feet, more or less, to a cement bound at said Wayland Road.

Thence turning and running on said Wayland Road in several directions a distance of Two Thousand Four (2004) feet more or less to the point of beginning.

Containing by estimation twenty-five acres, more or less.

Being and intending to convey the same property conveyed to me by deed of Daniel E. Sherman dated May 21, 1945, and recorded with the Middlesex South District Deeds Book 6858, Page 343.

See also Plan of Land owned by Daniel E. Sherman, Wayland, Massachusetts, November 1938, George E. Furbush, Surveyor, recorded in Book 6269, Page 66.

Subject to Takings, Easements and other encumbrances of record.

PARCEL No. 3

A certain parcel of land with the buildings thereon, situated in WAYLAND, Middlesex County being the parcel shown on a plan recorded with Middlesex South District Deeds in Book 5422, Page 224 bounded as follows:

Beginning at a concrete bound at the Northwest corner of the premises on Concord Road, so called, and running;

EASTERLY By land now or formerly of Daniel E. Sherman as the ditch and stone wall stands, Eleven Hundred Fourteen (1114) feet, more or less, to another stone wall, thence turning and running;

SOUTHERLY By land now or formerly of J. Sidney Stone as the stone wall now stands or formerly stood, Six Hundred Forty-four feet to a corner at an intersecting stone wall; thence turning and running;

WESTERLY By land now or formerly of said Stone by a stone wall and a ditch Eight Hundred Eighty-two (882) feet to a concrete bound at Weston Road, so called, thence turning and running;

NORTHERLY on said Weston Road and Concord Road, Eight Hundred Fifty Two and 37/100 feet to the point of beginning.

Containing according to said plan 17.18 acres.

Being and intending to convey the same premises conveyed to John P. Murphy by a deed from Harvard Trust Company Executor

of the Will of Andrew Thoma, dated, November 15, 1945 and a deed from Mary Theresa Thoma A/K/A Mary T. Toma dated September 14, 1945 both recorded with the Middlesex South District Deeds Book 6912, Page 13, 14, and 15.

ALL SUBJECT TO TAKINGS, EASEMENTS AND ENCUMBRANCES OF RECORD

The consideration for this conveyance is such that no revenue stamps are required.

IN WITNESS WHEREOF in our said capacity as Co-Conservators as aforesaid, we have hereunto set our hands and seals this 27th day of December, 1984.

David Finkelstein, Esquire
Co-Conservator of John P. Murphy

Paul M. Doherty, Esquire
Co-Conservator of John P. Murphy

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

DECEMBER 27, 1984

Then personally appeared the above named, David Finkelstein, Esquire and Paul Doherty, Esquire, and acknowledged the foregoing instrument to be their free act and deed before me.

Edward J. Ruppel
Edward J. Ruppel, Notary Public
My Commission Expires: 3/30/90

DECLARATION OF TRUST

12/31/84 12:21 TR 467 BE 1300

016-

BK 159444419

DECLARATION OF TRUST

DATED: DECEMBER 31, 1984

The undersigned, DAVID FINKELSTEIN, ESQUIRE, of Framingham, Middlesex County, Massachusetts, and PAUL DOHERTY, ESQUIRE ^{aka Paul M Doherty} of Woburn, Middlesex County, Massachusetts, hereby declare themselves to be Trustees hereunder and that any and all property and interests in property which may be acquired hereunder (the "Trust Estate") shall be held in Trust for the sole benefit of the beneficiaries for the time being hereunder upon the terms hereinafter set forth. The term "Trustees" wherever used herein shall mean the Trustee or Trustees named herein and such person or persons who hereafter are serving as Trustee or Trustees hereunder, and the rights, powers, authority and privileges granted hereunder to the Trustees shall be exercised by such person or persons subject to the provisions hereof.

1. The term "beneficiaries" wherever used herein shall mean the beneficiary or beneficiaries listed in the Schedule of Beneficial Interests this day executed and filed with the Trustees, or in the revised Schedule of Beneficial Interests, if any, from time to time executed and filed with the Trustees. The Trustees shall not be affected by any assignment or transfer of any beneficial interest until receipt by the Trustees of

notice that such assignment or transfer has in fact been made and a revised Schedule of Beneficial Interests shall have been duly executed and filed with the Trustees.

2. The Trustees shall hold the Trust Estate and shall forthwith pay to the beneficiaries all funds received by the Trustees on account of the Trust Estate; but the Trustees shall have no power to deal in or with the Trust Estate except as set forth herein. When, as, if, and to the extent specifically directed by the beneficiaries, the Trustees, or any one of the Trustees acting for all the Trustees, shall have full power and authority, which they shall exercise, to buy, sell, convey, assign, mortgage deal with or otherwise dispose of all or any part of the Trust Estate and as lessor or as lessee to execute and deliver leases and subleases, and to borrow or loan money and to execute and deliver or accept notes or other evidence of such borrowing or loans, and to execute and deliver discharges, partial releases, assignments and subordinations of mortgages and to make other agreements or arrangements concerning mortgages and the obligations secured thereby, and to grant or acquire rights or easements and enter into agreements or arrangements with respect to the Trust Estate. Any and all instruments executed pursuant to powers herein contained may create obligations extending

over any periods of time including periods extending beyond the date of any possible termination of the Trust. Notwithstanding any provisions contained herein, no Trustee shall be required to take any action which will, in the opinion of such Trustee, involve him in any personal liability unless first indemnified to his satisfaction. Any person dealing with the Trustees shall be fully protected in accordance with the provisions of Paragraph 5 hereof.

3. The Trust may be terminated at any time by the beneficiaries, or any one or more of them, by notice in writing to the Trustees, but such termination shall only be effective when a certificate thereof signed and acknowledged by a Trustee hereunder shall be recorded with the Registry of Deeds ^{within five days} as that term is hereinafter defined; and the Trust shall terminate in any event twenty (20) years from the date hereof. In case of any such termination, the Trustees shall transfer and convey the specific assets, constituting the Trust Estate, subject to any leases, mortgages, contracts or other encumbrances on the Trust Estate, to the beneficiaries as tenants in common in proportion to their respective interests hereunder.

4. Any Trustee hereunder may resign by written instrument signed and acknowledged by such Trustee and recorded with the Registry of Deeds. Succeeding or additional Trustees may be appointed or

any Trustee removed by an instrument or instruments in writing signed by the beneficiaries, provided in each case that such instrument or instruments or a certificate by any Trustee naming the Trustee or Trustees appointed or removed, and in the case of any appointment the acceptance in writing by the Trustee or Trustees appointed, shall have been recorded with the Registry of Deeds. Upon appointment of any succeeding Trustee, the title to the Trust Estate shall thereupon and without the necessity of any conveyance be vested in said succeeding Trustee jointly with the remaining Trustee or Trustees, if any. Each succeeding Trustee shall have all the rights, powers, authority, and privileges as if named as an original Trustee hereunder. No Trustee shall be required to furnish bond. This Declaration of Trust may be amended from time to time by an instrument in writing signed by the beneficiaries and acknowledged by one or more of such Trustees or beneficiaries, provided in each case that the instrument of amendment or a certificate by any Trustee setting forth the terms of such amendment shall be recorded with the Registry of Deeds.

5. No Trustee hereunder shall be liable for any error of judgment nor for any loss arising out of any act or omission in good faith, but shall be responsible only for his own willful breach of trust. No license of court shall be requisite to the

validity of any transaction entered into by the Trustees. No purchaser, transferee, pledgee, mortgagee, lessee, encumbrancer, creditor, or other person shall be under any liability to see to the application of the purchase money or of any money or property loaned or delivered to any Trustee or to see that the terms and conditions of this Trust have been complied with. Every agreement, lease, deed, mortgage, note or other instrument or document executed or action taken by any person appearing from the records of the Registry of Deeds to be a Trustee hereunder shall be conclusive evidence in favor of every person relying thereon or claiming thereunder that at the time of the delivery thereof or of the taking of such action this Trust was in full force and effect, that the execution and delivery thereof or taking of such action was duly authorized, empowered and directed by the beneficiaries, and that such instrument or document or action taken is valid, binding, effective, and legally enforceable. Any person dealing with the Trust Estate or the Trustees may always rely without further inquiry on a certificate signed by any person appearing from the records of the Registry of Deeds to be a Trustee hereunder as to who are the Trustees or the beneficiaries hereunder or as to the authority of the Trustees to act or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or which are in any other manner germane to the affairs of the Trust.

6. The term "Registry of Deeds" as used herein shall mean the Middlesex County Registry of Deeds; provided that if this Declaration of Trust is recorded or filed for registration in any other public office within or without the Commonwealth of Massachusetts, any person dealing with portions or all of the Trust Estate as to which documents or instruments are recorded or filed for registration in such other public office in order to constitute notice to persons not parties thereto may rely on the state of the records with respect to this Trust in such other public office, and with respect to such portions or all of the Trust Estate the term "Registry of Deeds" as used herein shall mean such other public office.

WITNESS the execution hereof under seal at Massachusetts, by the undersigned this 31st day of December, 1984.

David Finkelstein as
Trustee

Paul M. Doherty as
Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

December 31, 1984

Then personally appeared the above-named David Finkelstein and Paul Doherty and acknowledged the foregoing instrument to be their free act and deed, before me.

Edward S. Kahan
Notary Public
My Commission Expires: 3/24/90



SCHEDULE OF BENEFICIAL INTERESTS

The undersigned beneficiaries and Trustees do hereby certify that the following are the holders of all of the beneficial interest of the Trust created by the Declaration of Trust dated December 31, 1984 (to which this Schedule is attached), and that they hold the respective percentage interests designated below:

<u>BENEFICIARY</u>	<u>PERCENTAGE OF BENEFICIAL INTEREST</u>
John P. Murphy	100%

The undersigned further agree that the consent and approval of all of the holders of the beneficial interests of the said Trust shall be necessary to constitute the consent, approval, signatures, or other action of the beneficiaries required or contemplated by the terms of the Declaration of Trust establishing the said Trust and that the Trustees, when required to act only at the direction of the beneficiaries, shall only act when directed by the holders of all of the beneficial interests of the said Trust.

The undersigned beneficiaries hereby approve the terms of the Declaration of Trust establishing said Trust and, in consideration of the execution of said Declaration of Trust by the Trustees

of said Trust at our request, jointly agree with the Trustees, for ourselves and our successors (a) to be bound by said Trust; (b) to save the Trustees harmless from any personal liability for any action taken at the direction of the beneficiaries and for any error of judgment, or any loss arising out of any act or omission in the execution of the Trust so long as they act in good faith; and (c) to pay any and all expenses of the Trust allocated to us and to authorize the Trustees to withhold from any distribution, transfer or conveyance such amounts as they from time to time reasonably deem necessary to protect them from such liability or to meet expenses of compliance with provisions of law or governmental regulations applicable to the assets of the Trust.

IN WITNESS WHEREOF, the undersigned have executed this instrument under seal as of the *31st* day of *December* 1984.

BENEFICIARIES:

William Barlow
Barbara B Martin
Patricia B. Healey
Glice Barlow
Cynthia Murphy

TRUSTEES:

David J. Holt, Esq.
Paul M. Doherty, Esq.

SCHEDULE OF BENEFICIAL INTERESTS

The undersigned beneficiaries and Trustees do hereby certify that the following are the holders of all of the beneficial interest of the Trust created by the Declaration of Trust dated December 31, 1984 (to which this Schedule is attached) and that they hold the respective percentage interests designated below:

<u>BENEFICIARY</u>	<u>PERCENTAGE OF BENEFICIAL INTEREST</u>
John P. Murphy	90%
William Barlow	2%
Patricia Healey	2%
Barbara Martin	2%
Agnes Murphy	2%
Alice Barlow	2%

The undersigned further agree that the consent and approval of all the holders of the beneficial interests of the said Trust shall be necessary to constitute the consent, approval, signatures, or other action of the beneficiaries required or contemplated by the terms of the Declaration of Trust establishing the said Trust and that the Trustees, when required to act only at the direction of the beneficiaries, shall only act when directed by the holders of all of the beneficial interests of the said Trust.

The undersigned beneficiaries hereby approve the terms of the Declaration of Trust establishing said Trust and, in consideration of the execution of said Declaration of Trust by the Trustees

of said Trust at our request, jointly agree with the Trustees, for ourselves and our successors (a) to be bound by said Trust; (b) to save the Trustees harmless from any personal liability for any action taken at the direction of the beneficiaries and for any error of judgment, or any loss arising out of any act or omission in the execution of the Trust so long as they act in good faith; and (c) to pay any and all expenses of the Trust allocated to us and to authorize the Trustees to withhold from any distribution, transfer or conveyance such amounts as they from time to time reasonably deem necessary to protect them from such liability or to meet expenses of compliance with provisions of law or governmental regulations applicable to the assets of the Trust.

IN WITNESS WHEREOF, the undersigned have executed this instrument under seal as of the 30th day of December, 1984.

BENEFICIARIES:

William Barlow
Barbara B. Martin
Patricia B. Hearsey
Alice Barlow
John Murphy

TRUSTEES:

David D. Lee, Esq.
Paul M. Doherty, Esq.

ASSESSOR'S RECORD CARD

AVERY ASSOCIATES
REAL ESTATE APPRAISERS - COUNSELORS

Print Date: 01/05/2015 16:14

No Photo On Record

PLANS AND MAPS

ASSESSOR'S MAP

RECORDED PLAN (Plan 1011 OF 1992)

MA GIS MAPPING w/Wetlands

WETLANDS CHANGE MAPPING

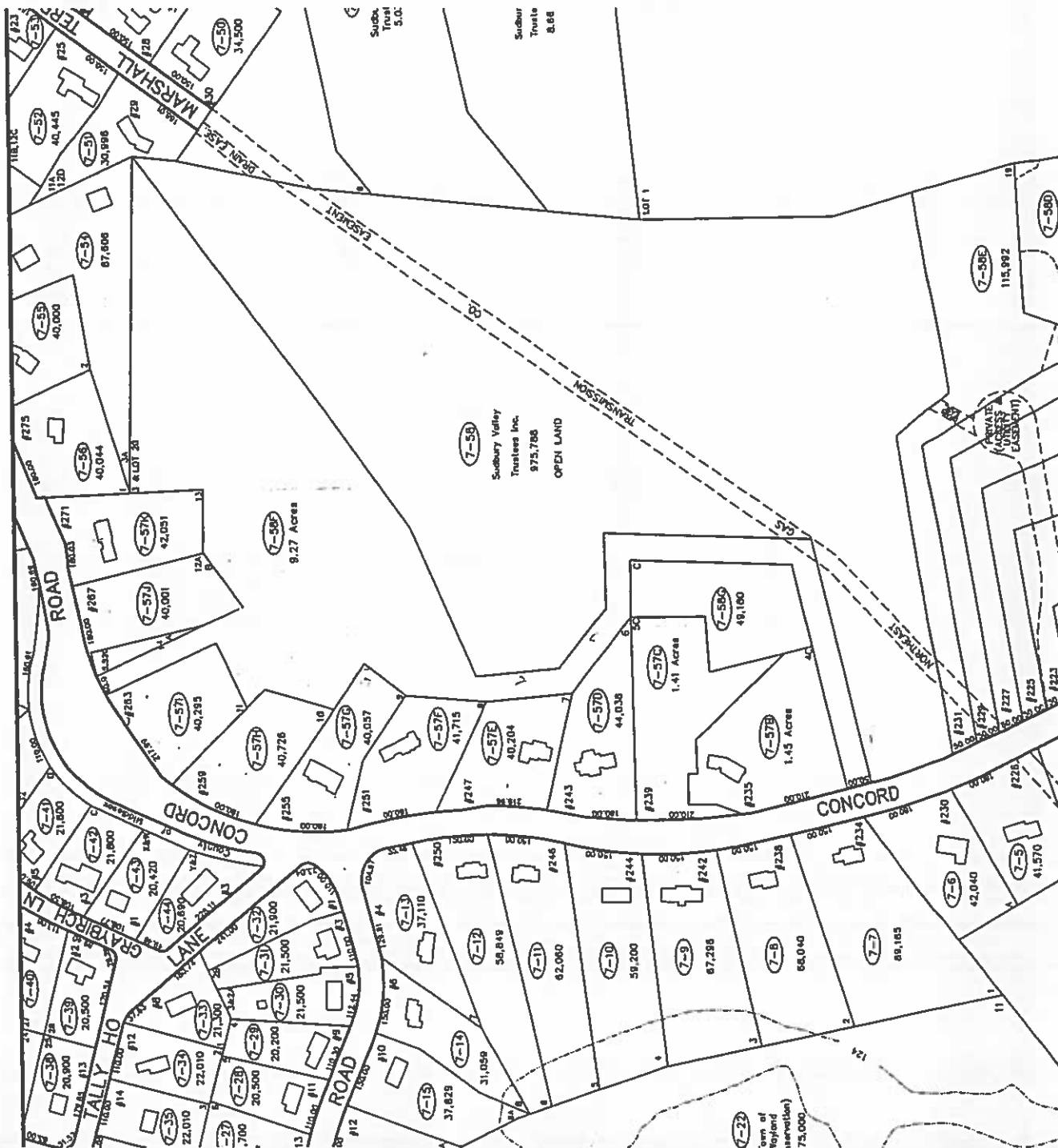
FLOOD MAP

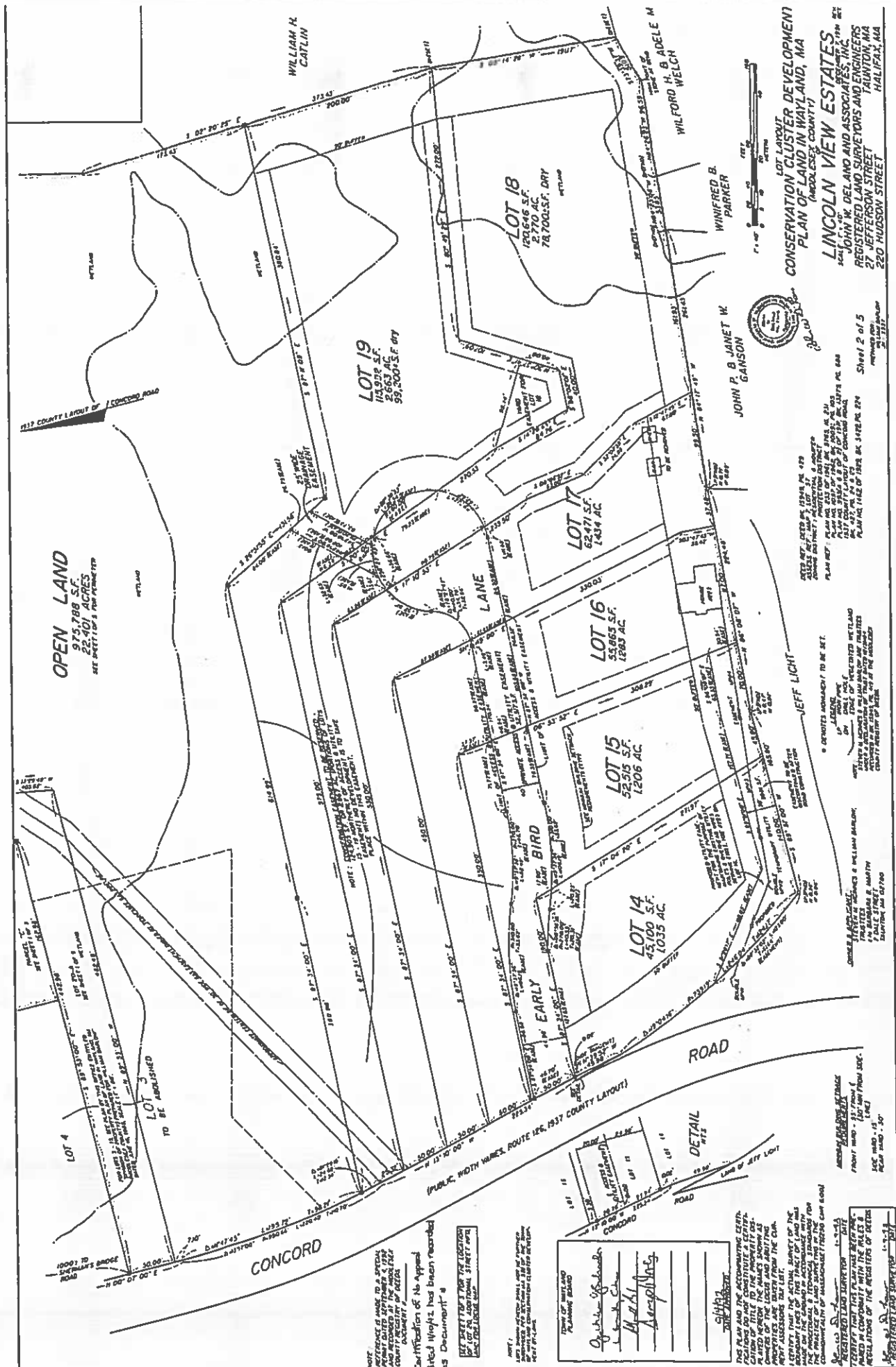
LOCATION MAPS

Buildable Lots

Non-Buildable Lots

AERIAL PHOTO SUBJECT





LINCOLN VIEW ESTATES
CLUSTER DEVELOPMENT
PLAN OF LAND IN WAYLAND, MA
(WINDHAM COUNTY)
SHEET 2 OF 5
REGISTERED LAND SURVEYORS AND ENGINEERS
TALANTON, MA
220 HUDSON STREET
HALEFAX, MA
01902

NOTES:
1. THIS PLAN IS A REVISION OF THE PLAN DATED 1982, SHEET 1 OF 5.
2. THE TOTAL AREA OF THE TRACT IS 120.00 ACRES.
3. THE TOTAL AREA OF THE TRACT IS 120.00 ACRES.
4. THE TOTAL AREA OF THE TRACT IS 120.00 ACRES.
5. THE TOTAL AREA OF THE TRACT IS 120.00 ACRES.

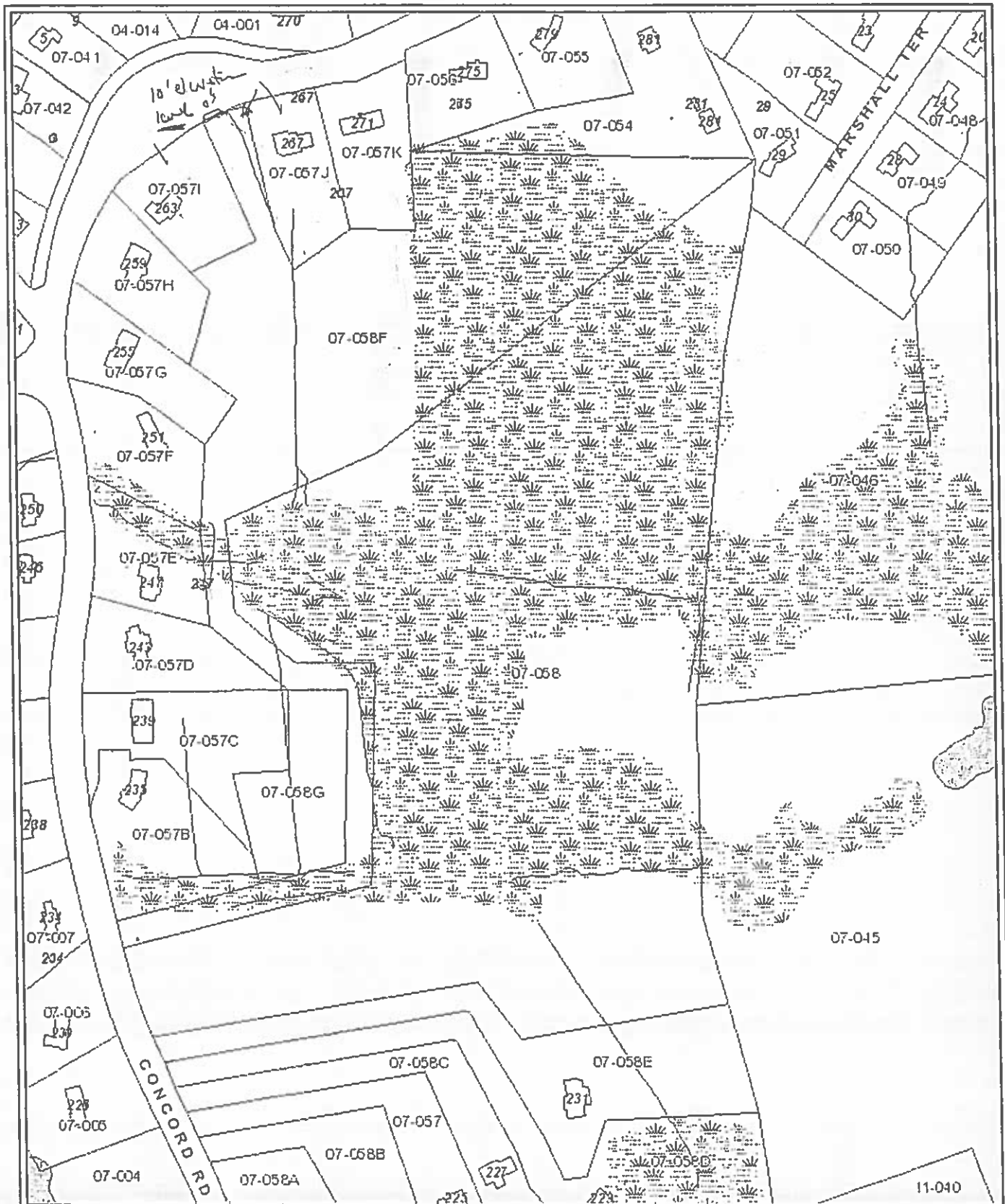
NOTES:
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Wayland, MA
1 Inch = 247 Feet
June 03, 2015

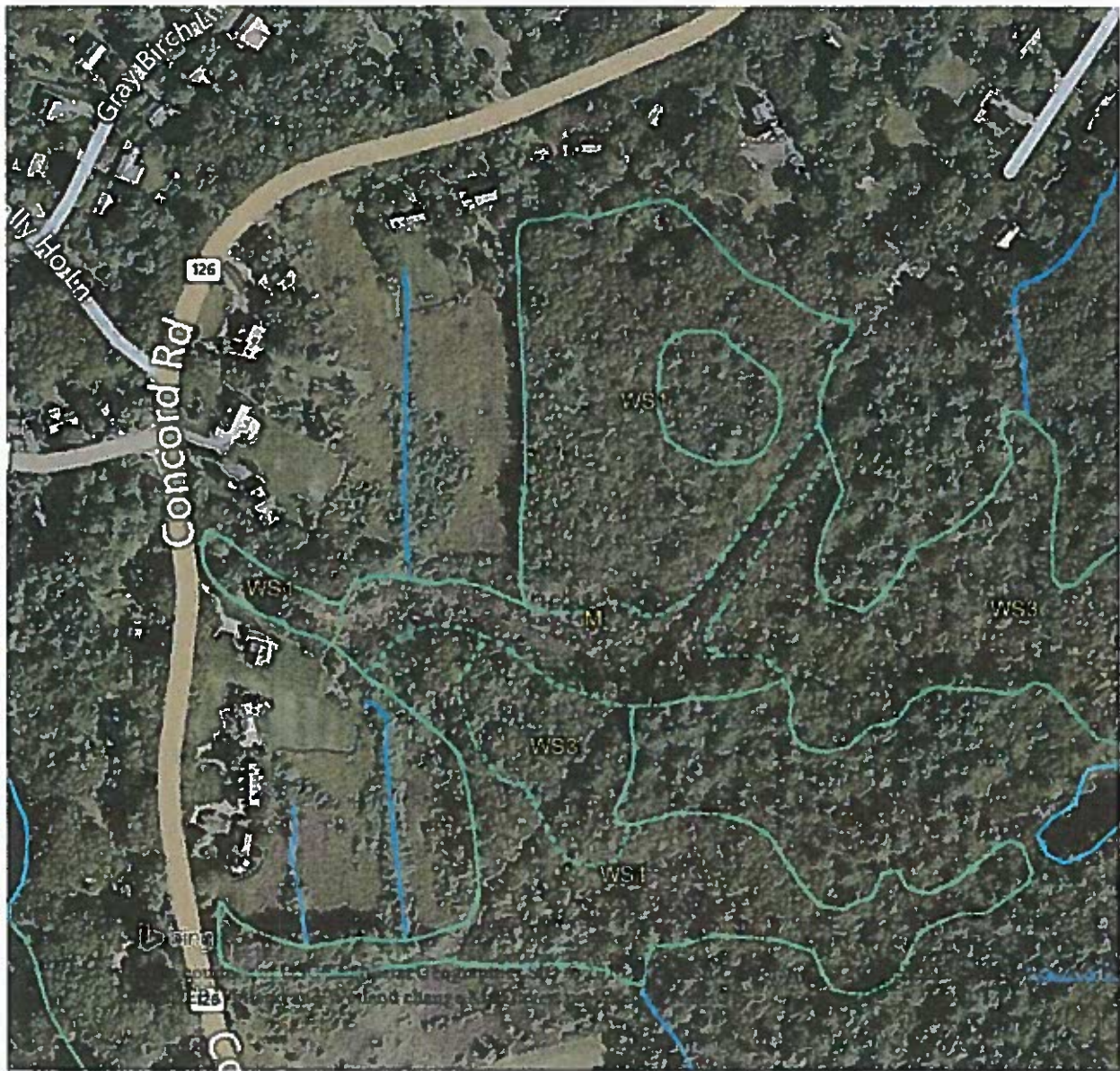


Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

www.cai-tech.com



Wetlands Change Mapping





MAP SCALE 1" = 500'



NFIP

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0388F

FIRM

FLOOD INSURANCE RATE MAP
MIDDLESEX COUNTY,
MASSACHUSETTS
(ALL JURISDICTIONS)

PANEL 388 OF 656
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
LINCOLN, TOWN OF	250199	0388	F
SUDBURY, TOWN OF	250217	0388	F
WATLAND, TOWN OF	250224	0388	F

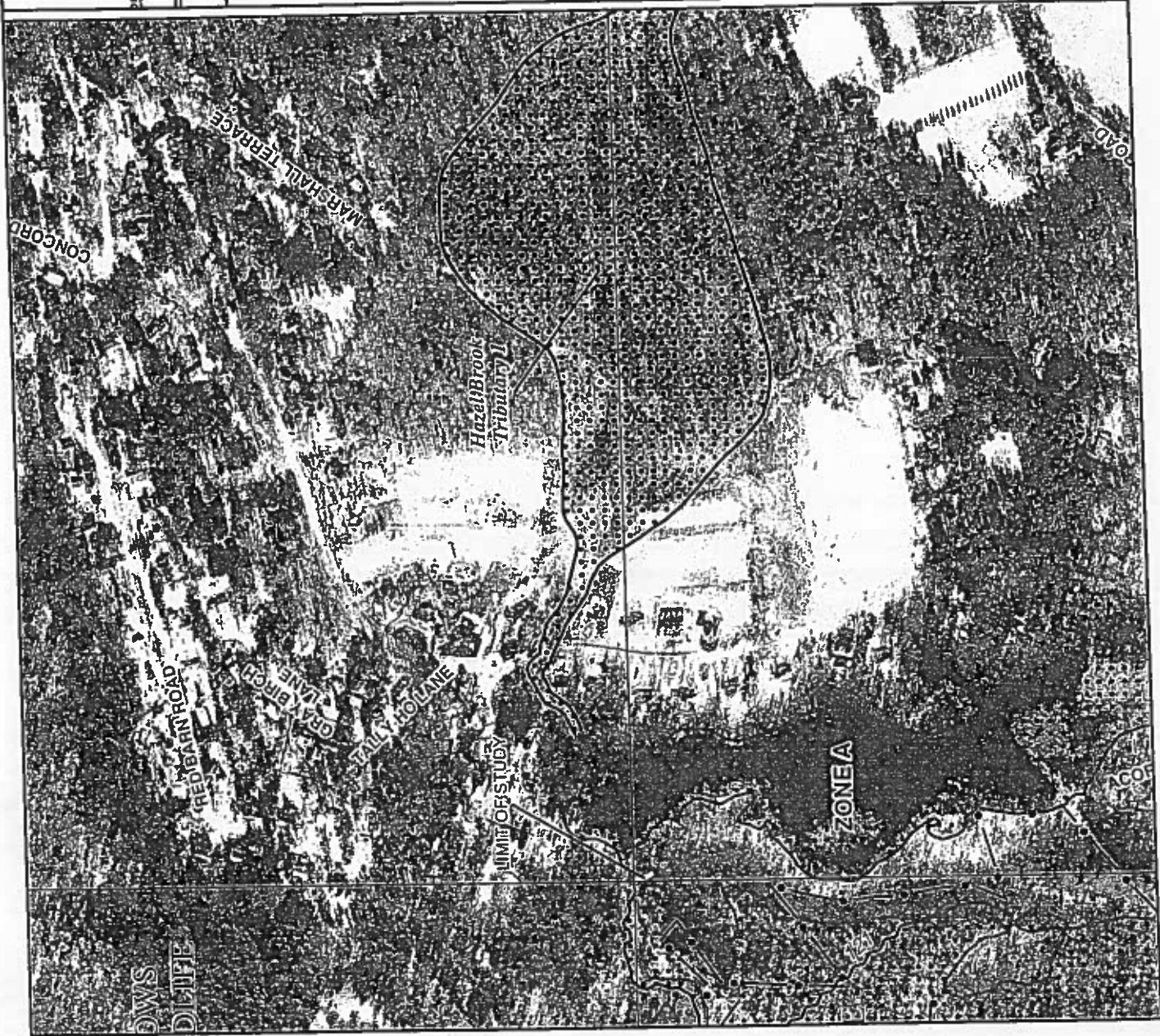
Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER
25017C0388F
MAP REVISED
JULY 7, 2014

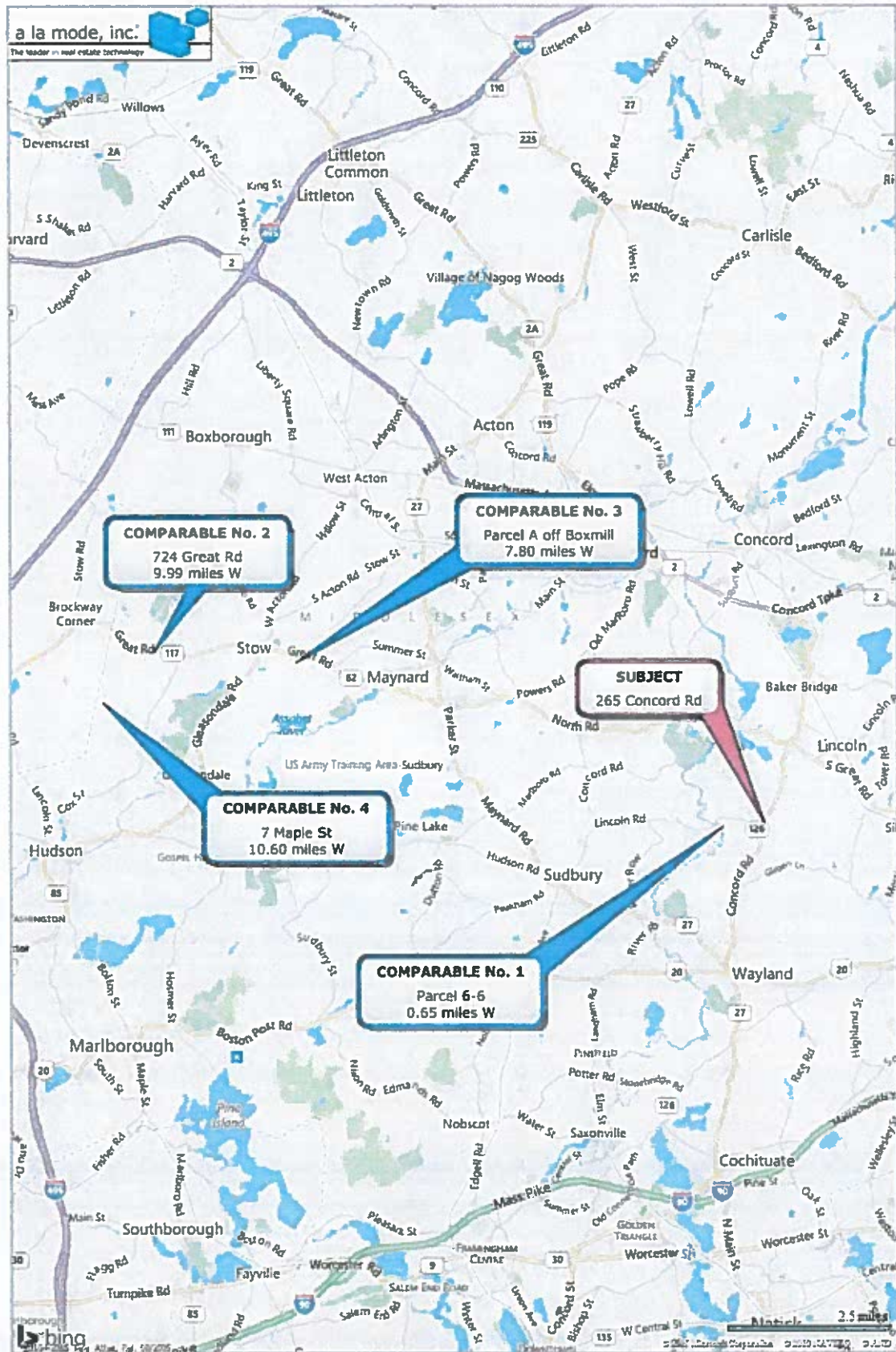
Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

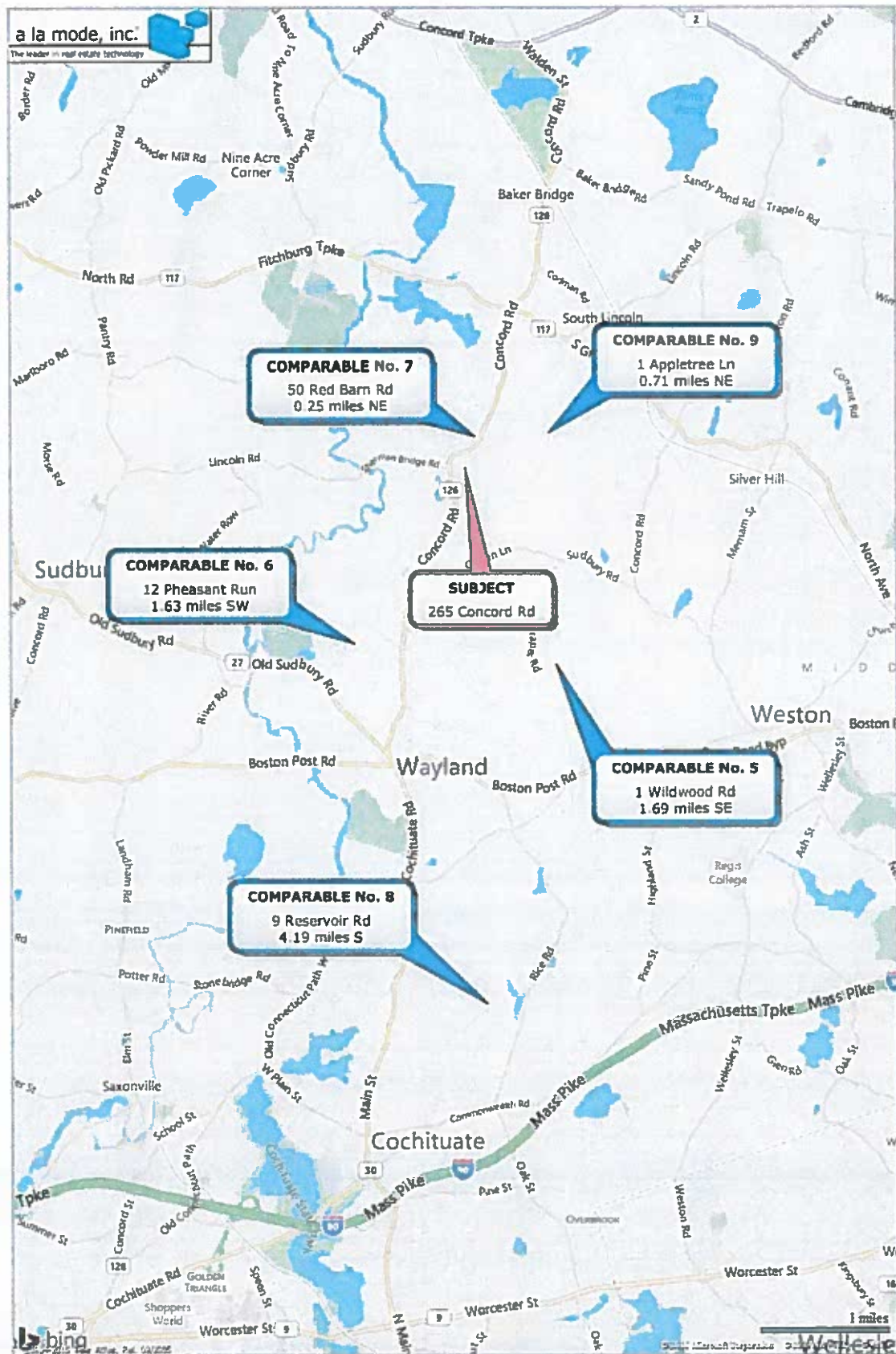


Location map - Geographic 1, non-pondable lots

Client	Wayland Conservation Commission				
Property Address	265 Concord Rd				
City	Wayland	County	Middlesex	State	MA
Owner	1992 Declaration of Trust, Book 15949, Page 419				
Zip Code	01778-1116				



Client	Wayland Conservation Commission			
Property Address	265 Concord Rd			
City	Wayland	County	Middlesex	State MA Zip Code 01778-1116
Owner	1992 Declaration of Trust, Book 15949, Page 419			



Aerial Photograph



SUPPLEMENTAL DATA

MLS LISTING

**1992 WAYLAND SPECIAL PERMIT FOR
LINCOLN VIEW ESTATES**

**SUMMARY OF WESTLAW RESULT
LEGAL PROCEEDINGS**

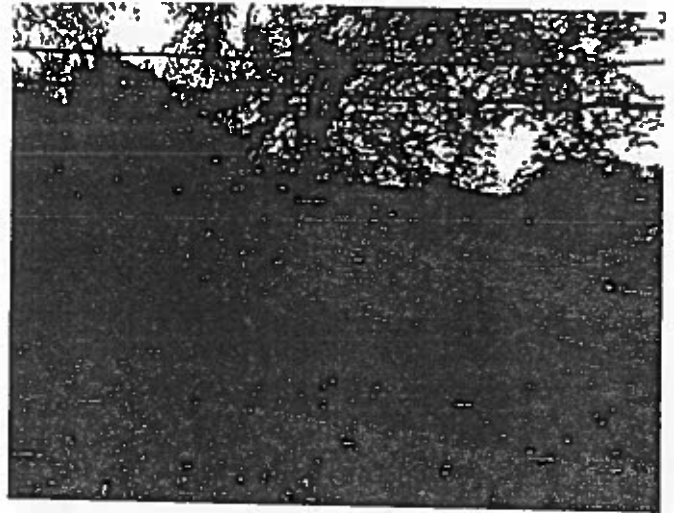
WAYLAND WETLANDS DETERMINATION REPORT

Wayland, MA 01778
Land

MLS #: 71748047
List Price: \$400,000
List Date: 9/24/2014
Area:
Days on Market (Total): 255
Status: Active
Off Market Date:
Days on Market (Office): 255

Property Features

Lots Apprvd: Type: Residential
Street Frontage: 40 Approx. Lot Size: 403801
HOA: Total Approx. Acres: 9.27
Assoc Req: Cultivation Acres:
HOA Fee: \$ Pasture Acres:
Cable Avail.: Timber Acres:



Features & Other Information

Area Amenities: --
Beach Description: Lake/Pond
Beach Ownership: Public
Beach - Miles to 1 to 2 Mile
Gas: At Street
Improvements: --
Land Description: Level, Irregular Lot
Road Type: Public
Sewer Utilities: Private
Water Utilities: Public
Waterfront: --
Short Sale w/Lndr.App.Req: No
Lender Owned: No
Documents: --
Electric: At Street
Water View: --
Exclusions:
Zone Usage: Single Family

Remarks

Nine plus acres awaits your vision. A home set back from the road would give you a feeling on a private oasis. Majority of lot is clear of mature trees and is level. Lot is located right down the road from Walden Pond and has ease of access to Routes 2, 117 and 20.

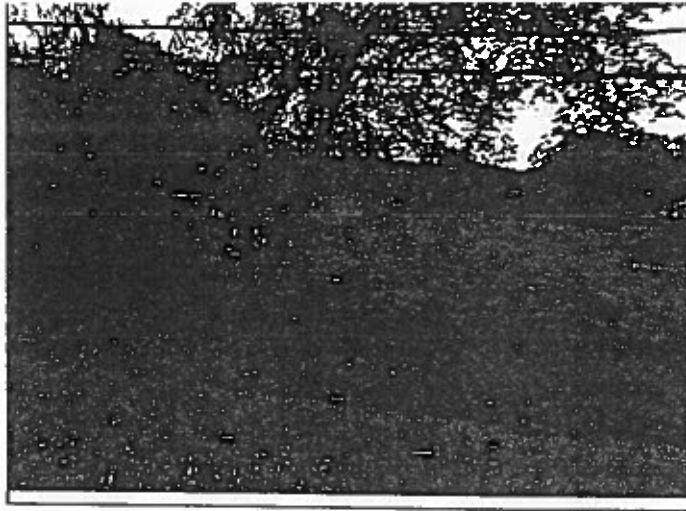
Tax Information

2014 Taxes: \$7927.73 Assessment: \$432,500
Pin #: Cert: Zoning Code: R60/1300
Map: 07 Block: 058 Lot: 07-058 Book: 15949 Page: 429

Listing Information

Directions: 1.5 miles south of Route 117 on left side
Listing Agreement Type: Exclusive Right to Sell Entry Only: No
Showing: Sub-Agent: Sub-Agency Relationship Not Offered
Showing: Buyer-Agent: Go Direct
Showing: Facilitator: Go Direct
Special Showing Instructions:
Disclosures: Agent related to Seller
Listing Office: Hammond Residential (781) 861-8100
Original Price: \$400,000
Sub-Agent Comp.: Not Offered
Buyer Agent Comp.: 2.5
Facilitator Comp.: 2.5
Compensation Based On: Net Sale Price
Listing Agent: Thomas Barlow (401) 419-8732

				DUM	DIO	Price
71748047	9/24/2014	Listed for \$400,000	Thomas Barlow			\$400,000
EXP	1/1/2015	Status Changed to: Expired	System			
RAC	1/5/2015	Status Changed to: Reactivated	Lorraine Neofotistos	255		
Market History for Hammond Residential (BB3473)				255		
Market History for this property				255		



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TOWN OF WAYLAND
MASSACHUSETTS
01778

PLANNING BOARD

TOWN BUILDING
41 COCHITUATE ROAD
TEL. (508) 358-7701

MEMO

TO: Planning Board
FROM: Judith St. Croix, Town Clerk
SUBJECT: Certification of No Appeal
DATE: November 10, 1992

Plan
10/11/92

In accordance with the Subdivision Control Law, MGL Ch. 41, s. 81-X, this memo certifies that no notice of appeal was received during the twenty days next after receipt and recording of notice from the Planning Board of the approval of the conservation cluster special permit and plans entitled "Lincoln View Estates," dated October 8, 1992, as revised, consisting of Sheets 1 through 5 of 5 plus an unnumbered sheet showing soils classifications, all prepared by J. W. Delano and Associates, Inc. for Barlow and McInnes, Trustees. The plans show six proposed building lots off a proposed private way called Early Bird Lane plus one proposed building lot off Concord Road.

Judith St. Croix
Judith St. Croix, Town Clerk

Property address 223 Concord Rd.

Plan No 1011
10/11/92 10:27:53 205 25.25

SEE PLAN IN RECORD BOOK
22689 PAGE *266*



TOWN OF WAYLAND
MASSACHUSETTS
01778

LINCOLN VIEW ESTATES
CONSERVATION CLUSTER
SPECIAL PERMIT DECISION

TOWN BUILDING
41 COCHITUATE ROAD
TEL. (508) 358-7701

A. SUBMITTAL & HEARING

Pursuant to Section IX A, Conservation Cluster Development, of the Wayland Zoning By-Laws (these by-laws), on January 6, 1992 William Barlow and Steven M. McInnes, Trustees of a trust formed under a declaration of trust dated December 31, 1984, c/o Barbara B. Martin, 7 Dale Street, Taunton, Massachusetts 02780 (the Applicant), submitted an application (the Application) for a special permit to develop as a conservation cluster certain land in Wayland shown on a plan of land entitled "Conservation Cluster Development Plan of Land in Wayland, MA (Middlesex County) of Lincoln View Estates," prepared by John W. Delano and Associates, Inc. Said plan (the Plan) consists of Sheets 1 through 4, all dated December 7, 1991. The Applicant and the Town Clerk were notified on January 22, 1992 that the Application was not complete. Additional requested information and materials were subsequently submitted, and the Application was deemed complete on February 20, 1992. The Application consists of all materials, information, and plans submitted by the Applicant to obtain said special permit.

As the special permit granting authority designated under Section IX A of these by-laws, the Planning Board held a public hearing on the Application on April 7, 1992, after notice by advertisement in the Town Crier (on March 19 and 26, 1992) and notice to abutters as required by law. The public hearing was continued from April 7, 1992 to: May 5, May 19, June 2, June 16, June 30, and August 4, 1992, on which date the hearing was closed. The Applicant, his representatives, and the public were present at the hearing on April 7, June 2, June 30, and August 4, 1992. On the other dates the hearing was continued without discussion. Following the public hearing the Planning Board reviewed the Application, including the Plan, and the proceedings of the public hearing.

B. FINDINGS

The Board makes the following findings:

1. The Application is in harmony with the purposes and intent of the Zoning By-Laws.

2. The tract of land shown on the Plan has an area of 43.165 acres, in excess of the required ten acres. Nearly 65%, or 28 acres, of this 43 acres is open space, more than the 35% required by Section IX A 3(g) of these by-laws. This open space consists of 25 acres designated on the Plan as "Open Land" plus 3 acres within Lots 15 through 19 designated as "Conservation Easement".

3. The development is located in Residence Zone 60,000 sq. ft. - 210 ft. Front and Residence Zone 40,000 sq. ft. - 180 ft. Front with. The tract is predominantly open field with some woods and wetlands, surrounded by residential neighborhoods. The Plan, if implemented, will contribute seven building lots, each over 45,000 square feet in area, plus the approximately 28 acres of permanently protected open space. The Planning Board finds this design to be adequate to protect the natural features of the area and the neighborhood.

4. The maximum number of building lots permitted pursuant to the formulas in Section IX A 3(c) of these by-laws is seven. The development contains one open space and seven building lots.

5. The Plan shows that each of Lots 14 through 20 has the required 50 feet of frontage, but on Concord Road, which is not a road internal to the cluster as required. The Planning Board finds these frontages to be adequate.

6. Each building lot has an area in excess of the required 20,000 square feet and is of a size and shape as provides a building site that is in harmony with the natural terrain and other features of the tract.

7. The front, side, and rear yards of each lot are shown on the Plan by dashed lines indicating the area within which any proposed building may be built. Except as specifically waived herein, all proposed dwellings and accessory buildings shall be set back at least fifty feet from the perimeter of the tract and at least fifteen feet from any open land.

8. The Applicant proposes to convey the land designated as "Open Land" and "Conservation Easement" on the Plan to the Sudbury Valley Trustees, Inc. (SVT) free of any mortgage interest or security interest and subject to a perpetual conservation restriction as approved by the Wayland Conservation Commission to be conveyed to the Town of Wayland, prior to the Planning Board's release of any lots from the special permit covenant contract.

9. The use of the fifty-foot buffer for subsurface waste disposal as designated on the northerly portion of Lot 20, adjacent to land now or formerly of Stevens, will not be detrimental to the character and quality of the development, so it may be used for subsurface waste disposal, but only if the owner of said lot demonstrates to the satisfaction of the Planning Board that there is no other area on Lot 20 suitable for such disposal. This location, if approved for such use by the Board of Health, may be technically suitable for such disposal and is separated by elevation, vegetation, and distance from existing and proposed development.

10. The Plan shows that all dwelling units shall be in detached single family dwellings, as required.

14 15 16 17
19 20
7 lots

11. The land shown on the Plan is within two zoning districts, Residential Zones 40,000 and 60,000 square feet, as mentioned above. Lots 14 through 19, comprising 10.39 acres of the development, are in the 60,000 square foot district, while Lot 20, comprising 7.782 acres, is in the 40,000 square foot district. Thus, 57.18% of the building lots is in the 60,000 square foot district and the development shall comply with all requirements of Section IX A of these by-laws as though it were entirely within the 60,000 square foot district.

12. Without a special permit, the 43 acres of this tract could be subdivided into seven to ten buildable lots.

13. The long-range plans of the Town are expressed primarily through its Zoning By-Laws. The Plan generally conforms with these by-laws. With about 28 acres of open land and seven building lots, the development is designed to preserve the natural terrain of the site.

14. The open space has been designed for public access from Concord Road and is abutting other publicly accessible conservation land of SVT, and has been deemed desirable for conservation by the Wayland Conservation Commission.

C. DECISION

Based on the submittal, the hearing, and the above findings, the Planning Board hereby grants to the Applicant a special permit under Section IX A of the Wayland Zoning By-Laws exempting the land shown on the Plan from the lot area, frontage, yard, setback, and width requirements of Section IX of these by-laws, subject to the waivers, conditions, and limitations listed immediately below.

D. WAIVERS GRANTED FROM THE SUBDIVISION REGULATIONS

As authorized by Section 1.10 of the Regulations Governing Conservation Cluster Development (the regulations) the Planning Board judges that it is in the public interest and is not inconsistent with the regulations or Section IX A of the Zoning By-Laws to grant the following requested waivers from the Subdivision Regulations, and does hereby grant the following waivers as described below:

1. Sec. III B.3.--Required: 1.5" left margin. Requested: 0.75" left margin.

2. Sec. III B.3.q.--Required: Show significant natural features, including trees over 10" caliper. Requested: Show no trees over 10" caliper beyond limits of proposed road since there are no trees within the limits of the site to be developed as the road and no other trees are to be disturbed by the development of the road.

3. Sec. III B.3.t.--Required: Show paving, walks, lights, signs, etc. on a separate sheet. Requested: Show only applicable improvements on the street plan view sheet since only certain of these improvements are applicable to this development and they are adequately shown on the plan view sheet.

4. Sec. III B.3.v.--Required: Show street layout sketch of Applicant's adjacent land. Requested: Do not show such sketch of proposed open space since this requirement refers to adjacent undeveloped land that is not a part of the proposed development, and the Applicant owns no such land.

5. Sec. IV B.1.c.--Required: Minimum 200' tangent between curves. Requested: No tangent on proposed road since, due to the configuration of the adjacent privately owned lot, the road must curve without the 200-foot tangent to minimize its protrusion into the field.

6. Sec. IV B.2.--Required: 22' pavement width. Requested: 20' pavement width because of the relatively small number of lots serviced by the road, because of the need to minimize the amount of impervious surface thus minimizing the road's impact on the field and the environment, and because no objections were raised by the Police or Fire Departments.

7. Sec. V B.3.--Required: Granite curbing at curb inlets for catch basins, at street intersections, and at inside curves with interior angles less than 110 degrees. Requested: Bituminous curbing at street intersections and inside curves to minimize the impact of the road on the environment.

8. Sec. V B.4.--Required: Paved walkway for Early Bird Lane. Requested: Compacted pervious walkway to reduce the impervious surface and to minimize the impact of the walkway on the environment.

9. Sec. V B.5.b.ii.--Required: Consider 90% of cluster to be impervious for drainage. Requested: Use residence zone figure of 20% since only single family residences, with impervious coverage of about 5%, are to be built.

10. Sec. V B.10.--Required: Tree planting along both sides of the proposed road. Requested: No trees be planted in order to preserve the open vista of the field and because the tree line on the other side of the road is along the road.

11. Typical Roadway Cross-section--Required: Crown in center of pavement. Requested: No crown, cross slope only so that only the drainage striking the road's surface will cross the road (draining downslope from north to south).

E. WAIVERS GRANTED FROM THE CONSERVATION CLUSTER REGULATIONS

As authorized by Section 1.10 of the Regulations Governing Conservation Cluster Development (the regulations) the Planning Board judges that it is in the public interest and is not inconsistent with the regulations or Section IX A of the Zoning By-Laws to grant the following requested waivers from the Regulations Governing Conservation Cluster Development, and does hereby grant the following waivers as described below:

1. Sec. 2.2.b.7)--Required: Provisions for screening, lighting, landscaping, walks, etc. Requested: No such provisions because of the limited scope of the development and because the pre-developed views of the site will not be substantially diminished as a result of this development.

2. Sec. 3.1.c.—Required: 50-foot wide buffer strip around perimeter of tract. Requested: a) Allow existing house on Lot 16 to be within this buffer. b) Allow proposed house and septic system on Lot 18 to be within 30' of the property perimeter. c) Allow septic system to be within this buffer on Lot 20 either within the access area or in the designated area at the back of the lot, adjacent to land now or formerly of Stevens. d) Allow existing overhead utilities to be within this buffer until the proposed road is constructed and utilities are placed underground. There are several compelling reasons for granting this waiver, including: a) The existing house is a pre-existing, non-conforming structure. b) The location of the proposed house and septic system on Lot 18 are severely limited within the required building envelope and the house on the abutting lot is over 300' from the lot line and buffered by woods. c) The only location for the septic system on Lot 20 may be within the buffer and the disturbance by such system will be minimal. d) There will be a significant cost savings with no additional damage or loss to the buffer by allowing the overhead utilities to remain until the road is constructed.

3. Sec. 3.1.e.—Required: Each principal building shall have legal access from a new street contained within the cluster. Requested: Allow legal access from Concord Road because Lot 20 will be accessed from Concord Road as a matter of practice regardless of the location of its legal access. The other lots will be accessed as a matter of practice internally from Early Bird Lane, which, their legal accesses cross before reaching Concord Road.

4. 3.1.i.—Required: All utilities be installed underground. Requested: Allow the overhead utilities to remain until the proposed road is constructed and the underground utilities are installed since there will be a significant cost savings with no long term loss to the public by allowing the existing overhead utilities to remain until the road is constructed.

F. WAIVERS NOT GRANTED FROM THE SUBDIVISION REGULATIONS

As authorized by Section 1.10 of the regulations the Planning Board judges that it is not in the public interest and is inconsistent with the regulations or Section IX A of the Zoning By-Laws to grant the following requested waivers from the Subdivision Regulations, and does not hereby grant the following waivers as requested, instead granting them as described below:

1. Sec. III B.4.h.—Required: Locate and install USC&GS-referenced bench marks every 500' along proposed road. Requested: Do not locate and install such bench marks. Board Requirement: Locate such bench mark at about the 500-foot mark of Early Bird Lane at the time of construction and show it on the as-built plan.

2. Sec. III B.4.1.—Required: Show all utilities in profile. Requested: Show only the area of such utilities in profile and show no such utilities for Lot 20. Board

Requirement: Show all utilities as required in the profile for Early Bird Lane; but show no such utilities for Lot 20, since Lot 20 is to be serviced with existing utilities from Concord Road.

G. REQUESTED WAIVERS FROM THE ZONING BY-LAWS

the Planning Board acknowledges that it cannot grant waivers from any dimensional requirements of the Zoning By-Laws. The Board notes that the approximately 7-foot setback of the existing house on Lot 16 is a pre-existing, non-conforming condition with respect to the Zoning By-Laws which, according to the Zoning Enforcement Officer, is permitted to continue under the Zoning By-Laws. However, this house and its lot must comply with all other zoning requirements.

H. NOTATIONS TO BE ADDED TO THE PLAN

If there is sufficient space on current Sheet 4 to add all required detail drawings they shall be added to it and it shall be re-numbered Sheet 5 of 5. If there is not sufficient space to add all such details, then they shall be added to a new, separate sheet to be numbered Sheet 6 of 6, while the current Sheet 4 shall be numbered Sheet 5 of 6. A new sheet, to be numbered Sheet 4 of 5 (or 6), shall be added to the Plan showing details of Lot 20, the final approved grading for the adjacent sidewalk along Concord Road, the abutting land, etc., as required. All other sheets shall be numbered accordingly.

In the following list of changes to be made to the various sheets new Sheet 4 (showing Lot 20) is referred to as New Sheet 4; the current Sheet 4 is referred to as New Sheet 5; and the detail drawings are assumed to be on New Sheet 6.

1. Sheets 1 to 3 & New Sheet 5--Change the name of road to Early Bird Lane.

2. Sheets 1 through New Sheet 5--Add all streams, existing and proposed easements, etc.; add bearings and distances to all lines; add all lot areas; add all symbols for lights, signs, etc.; and add bounds along all property lines at all changes in direction and at least every 300 feet.

3. Sheets 1, 2, 3, & New Sheet 4--Add all final adjusted lot lines with final adjusted calculations; add the wetlands and their 100-foot buffer zones as flagged in the field for Lots 18, 19, and 20; and add the Lot 20 50-foot legal access.

4. Sheet 1--Add the Lot 20 50-foot legal access to Concord Road behind Lots 4 to 8, with all relevant calculations; add lot density calculations (including the area of the wetlands); add all existing buildings within 200 feet of the perimeter of the tract; add the names of all abutters; and add the soils delineations for the entire tract.

5. Sheets 2 and New Sheet 4--Add the note that the lots cannot be further subdivided.

6. Sheets 2 & 3--Add the location of the existing septic system on Lot 16 to show if it meets all current setback

requirements; if the existing system does not meet said requirements, add the location of a septic system that does meet these requirements.

7. Sheet 2—Show the drainage easement at the end of Early Bird Lane to be 25 feet wide.

8. Sheets 3 & New Sheet 4—Add all potential driveways showing maximum slopes calculated; add all proposed house and septic system locations showing potential grading requirements; add centerline and pavement edge elevations along Concord Road for 200 feet on either side of both Early Bird Lane and the potential Lot 20 driveway; and add the locations of all deep test holes and percolation tests, properly labeled, for Lots 18, 19, and 20.

9. Sheets 3 & New Sheet 5—Delete the island at the end of the proposed road; add all final proposed road, drainage, walkway, etc. designs; and show the curb radius at the Early Bird Lane-Concord Road intersection to be 25 feet.

10. Sheet 3—Add the bench mark notation.

11. New Sheet 4—Add the existing and proposed topography for all of Lot 20 and areas beyond Lot 20 sufficient to calculate drainage onto adjacent lots; and show the slope of the existing sidewalk along Concord Road to be no more than 3.3%.

12. New Sheet 5—Move the proposed fire hydrant to the halfway point of Early Bird Lane; add the notation that the existing hydrant on Concord Road near Early Bird Lane shall be cleaned and raised as required by the Fire Department; add an additional fire alarm box at the Early Bird Lane-Concord Road intersection; and re-draw the typical road cross section to show the sidewalk area, approved slopes, drainage structures, water main, each utility, etc., all as required and shown in the Subdivision Regulations or as approved herein.

13. New Sheet 6—Add detail drawings for all water system structures as required by the Water Department letter dated 3/21/92; and add all other detail drawings of catch basins (which shall be standard MDC type), drain manholes, fire hydrants, curbs, roof drainage leaching pits, etc., as required.

I. CONDITIONS AND LIMITATIONS

1. The Applicant shall impose the following restrictive covenants, which shall run with the land and be referenced in the title to each lot affected by this special permit. Prior to recording the following restrictive covenants the Applicant shall furnish the proposed language of these restrictive covenants to the Planning Board for its review and approval.

a. Residential fire sprinklers shall be installed in each house (except the existing house on Lot 16) in accordance with National Fire Protection Association Standard 13D.

b. The maintenance of Early Bird Lane and all associated utilities shall be the abutting lot owners' responsibility, and all such maintenance shall be done under the supervision of the appropriate Town department.

c. The owner of each lot shall install post lamps on each lot within 10 feet of the road accessing each lot.

d. Each lot shall be cleared and disturbed only to the extent necessary for construction of the house, driveway, septic system, and associated improvements. To assure such minimal clearing and disturbance and other site and construction related requirements, the owner/developer of each lot shall submit site development and house plans to the Planning Board for its approval prior to undertaking any work on the lot. The site development plan shall include a description of how natural resources will be protected during construction. The Planning Board shall review and submit a decision on each such site development and house plan within 21 calendar days of their submission to the Board.

e. Each house (except the house on Lot 16) shall include properly designed leaching pits to recharge all of the run-off generated from the roofs of the houses in a 100-year storm.

2. The Applicant/developer of the proposed road shall submit to the Planning Board written and/or site plans describing how natural resources will be protected during construction. The Planning Board shall review and submit a decision on each such plan within 21 calendar days of its submission to the Board.

3. The Applicant shall measure the site distances from Early Bird Lane and the proposed driveway for Lot 20 when site work begins, and submit in writing to the Planning Board the results of said measurements together with a recommendation specifying which trees and/or shrubs should be trimmed and/or removed. The Planning Board shall determine in writing within 21 calendar days which trees shall be trimmed or removed to improve site distances and safety along Concord Road.

4. The Applicant shall submit written proof to the Board of Health, with a copy to the Planning Board, demonstrating that the septic system for the existing house on Lot 16 complies with setback requirements. If the current system does not comply with all setback requirements, then security sufficient to cover the cost of installing a new septic system on Lot 16 shall be submitted to the Planning Board in accordance with the requirements of the Board of Health, and a new system meeting all Board of Health requirements shall be installed on Lot 16 prior to the release of said security.

5. All septic systems shall comply with Board of Health requirements.

6. The Applicant shall submit the latest information to the Board of Health, with copies to the Planning Board, showing the locations of all deep test holes and percolation tests, labeled with test numbers, for Lots 18, 19 and 20; and shall submit to the Planning Board the results of monitor well readings for the same lots. All of this information shall be submitted prior to endorsement of the Plan by the Planning Board.

7. The Applicant shall flag the edge of the wetlands on Lots 18, 19, and 20. The Applicant shall arrange to have this delineation reviewed by the Conservation Commission for approval

so that the wetland and buffer zone lines can be shown on Sheets 1, 2, 3, and New Sheet 4 prior to the endorsement of the Plan by the Planning Board.

8. Prior to the endorsement of the Plan by the Planning Board, the Applicant shall either: 1) complete all grading on Lot 12 necessary to accommodate the sidewalk re-construction along Lot 20 between Lots 11 and 12; or, 2) obtain a sidewalk construction easement from the owner of Lot 12. Prior to the final release of the security submitted in accordance with MGL Ch. 41, s. 81-U the Planning Board shall inspect the final grading of the sidewalk adjacent to Lots 12 and 20 along Concord Road and certify in writing that it complies with the Plan. *

9. No lot shown on the Plan shall be further subdivided.

10. Except as specifically granted by waiver above, no proposed structure shall be erected on any of the lots outside of the dashed lines on the Plan indicating front, side, and rear yards, and the 50' buffer; and the existing structures shown on Lot 17 shall be removed.

11. The use of the designated area on Lot 20 for subsurface sewage disposal shall be permitted only if no other location on Lot 20 proves to be suitable for such disposal. Such proof must be submitted in writing to the Board of Health, with a copy to the Planning Board; both Boards must grant final approval in writing of the use of the buffer for such disposal. If the buffer is used for such disposal, the area of the buffer disturbed by such use shall be returned to its natural condition by appropriate landscaping to the extent that such use reasonably permits.

12. The development shall be constructed in accordance with this decision, the approved Application and Plan, and all other applicable laws, by-laws, and regulations.

13. Prior to the release of any lots from the special permit covenant contract, for each of the two areas of land designated on the Plan as "Open Land" and "Conservation Easement": (i) said open space shall be conveyed to the Sudbury Valley Trustees, Inc. free of any mortgage or security interest; and, (ii) a perpetual conservation restriction in favor of the Town of Wayland shall be imposed upon said open space in a form acceptable to the Planning Board. The wording of said conveyances shall be submitted to the Planning Board for its approval prior to endorsement of the Plan. The Applicant shall provide satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp, and of such freedom from encumbrances.

14. The special permit granted herein shall lapse if substantial construction has not begun within eighteen months of the date hereof, except for good cause, proof of which is submitted in writing to the Planning Board.

15. Prior to the recording of the Plan, a notation shall be placed thereon referencing this special permit and its recording information, and noting that the Plan shall be implemented in accordance with the conditions set forth herein.

16. This special permit decision shall be duly recorded with the Plan. Proof of both recordings shall be submitted to

the Planning Board within fifteen calendar days after the Planning Board endorses the Plan.

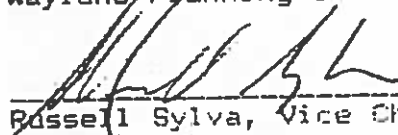
17. The Planning Board or its Agent and the Applicant or its Agent shall conduct inspections of the development in accordance with the requirements of the Subdivision Regulations.

18. Prior to endorsement of the Plan by the Planning Board the Applicant shall make the following separate payments to the Planning Board, all in check form made payable to the Town of Wayland: 1) a Planning Board inspection fee deposit of \$2,000; 2) a Water Department inspection fee of \$500; and, 3) a Planning Board review fee to be determined by the Planning Board based on fees already paid by the Applicant and an identified accounting of the review of the Application.

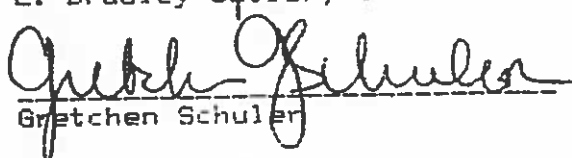
19. The failure to comply strictly with all of the terms and conditions set forth herein shall, at the option of the Planning Board, result in the revocation of said special permit.


George V. Ives, Chairman
Wayland Planning Board

Date: Sept. 4, 1992


Russell Sylva, Vice Chairman


L. Bradley Cutler, Clerk


Gretchen Schuler

ORIGINAL
NOT REPRODUCIBLE

265 Concord Rd

Term **D**

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William A. BARLOW & another, [FN1] trustees, [FN2] vs. PLANNING
BOARD OF
WAYLAND (and a companion case [FN3]).

No. 04-P-663.

February 25, 2005. - August 22, 2005.

Present: Duffly, Kaplan, & Dreben, JJ.

Zoning, Special permit, Site plan approval, Judicial review. Planning Board.

CIVIL ACTIONS commenced in the Land Court Department on December 21, 1999, and February 23, 2001, respectively.

After consolidation, the cases were heard by *Leon J. Lombardi, J.*

F. Alex Parra (Louis N. Levine with him) for the plaintiffs.

Mark J. Lanza, Town Counsel, for the defendants.

DREBEN, J.

This appeal by the trustees is from a decision of the Land Court upholding the refusal of the planning board of Wayland to approve their proposed site plan for lot 20 in a conservation cluster development (CCD). [FN4] The trustees challenge the judge's consideration of the planning board's

action under the standard of review applicable to a special permit and argue that even if that standard applies, the planning board's refusal was arbitrary, capricious, or based on legally untenable grounds. We affirm.

1. *Background.* On September 14, 1992, the planning board granted the trustees a special permit under Article 18 (formerly numbered Article IX) of the town's zoning by-law authorizing a CCD of seven single-family residences. [FN5] The present controversy involves the only remaining unbuilt lot, lot 20, which contains approximately seven and three-quarter acres, much of which is wetlands.

In order to obtain a special permit for a CCD, under the Wayland zoning by-law, the applicant must file an extensive site plan covering all the lots. This site plan, which we will refer to as the CCD site plan, or special permit site plan, differs from the site plan at issue, which involves only lot 20. The CCD site plan consisted of five sheets, and showed, among other things, wetlands, buffer zones, driveways, and locations of houses and septic systems. The following note, referring to proposed locations of houses and septic systems, appeared on the sheets of the CCD site plan, including sheet four, the sheet depicting lot 20:

"Proposed house locations shown for informational purposes only. Exact locations and dimensions to be determined by future owners.

"Septic systems will be constructed in the area of perc. tests."

In its decision granting the special permit, the planning board made findings and imposed conditions. Some were applicable to all lots, including (1) the requirement of submission of site development and house plans to the planning board prior to undertaking any work, [FN6], [FN7] and (2) the requirement that "[t]he development ... be constructed in accordance with this decision, the approved Application and Plan, and all other applicable laws, by-laws, and regulations." Other conditions in the special permit affected only lot 20, e.g., a provision that "subsurface sewage disposal," that is, the septic system, would be permitted in a specified location in the perimeter buffer zone "only if no other location on Lot 20 proves to be suitable for such disposal."

On January 15, 1999, the Massachusetts Department of Environmental Protection (DEP) issued a superceding order of conditions revising the delineation of the wetlands on lot 20. [FN8] As a result, the wetlands boundary moved in a westerly direction and, by bisecting the location of

the proposed house, made impossible the construction of the house as shown on the special permit plan. Because of the new location of the wetlands, the trustees submitted a site plan for lot 20 on March 11, 1999 that moved the house, the septic system, and the driveway from the locations shown on sheet four of the CCD site plan. The revised plan was rejected by the planning board on April 7, 1999. [FN9] The trustees did not seek judicial review of the March plan and the disapproval of that plan is not in issue.

The trustees submitted another plan on April 14, 1999. In May, 1999, the planning board again denied approval. [FN10] Thereafter, the trustees applied to the Wayland building commissioner for a building permit, which was rejected for several reasons, including the lack of site plan approval and the failure to provide building plans. The denial was appealed to the zoning board of appeals (zoning board). That board affirmed the denial by the building commissioner on numerous grounds, among them, the failure to provide plans and the determination that because of the changed locations of the driveway and the septic system, an amendment to the 1992 special permit was required and could only be granted after a public hearing. The trustees appealed to the Land Court from that decision. See note 4, *supra*.

Without prejudice to their contention that an amendment or modification of the special permit was unnecessary, the trustees applied to the planning board to approve the April, 1999 site plan as an amendment to the 1992 special permit. When, after public hearing, the amendment was denied on February 6, 2001,

[FN11] they filed the second appeal to the Land Court. The cases were heard together in that court.

2. *Findings of the judge and standard of review.* The Land Court judge found that the April, 1999 site plan differed markedly from the 1992 special permit plan. The footprint of the proposed house was approximately 3200 square feet as compared with 2000 square feet on the 1992 plan, a sixty percent increase.

[FN12] Both the house and septic systems were in locations other than those shown on the special permit plan. Larger portions of the septic system and the driveway fell within the perimeter buffer, a fifty-foot strip required by the planning board regulations. [FN13] Both intrusions, the judge found, would have "a greater impact on the perimeter buffer than the improvements shown on the special permit plan."

Noting that the planning board was not determining whether the trustees' site plan should be approved under the zoning by-law, see note 7, *supra*, but rather was reviewing the site plan in fulfillment of a condition imposed by the special permit, the judge considered that the planning board was "[i]n fact ... entertaining an application to modify a special permit." The trustees take issue with that ruling, arguing that the conditions of the special permit were satisfied and, citing *Prudential Ins. Co. of America v. Board of Appeals of Westwood*, 23 Mass.App.Ct. 278, 281-282 (1986), quoting from *SCIT, Inc. v. Planning Bd. of Braintree*, 19 Mass.App.Ct. 101, 105 n. 12, 106 (1984), that the planning "board did not have discretionary power to deny ... [approval], but instead was limited to imposing reasonable terms and conditions on the proposed use."

Because of the extensive changes from the special permit plan, the judge correctly reviewed the April plan under the standard of review applicable to special permits. See *Chambers v. Building Inspector of Peabody*, 40 Mass.App.Ct. 762 (1996). In that case, Elder Living, Inc. obtained a special permit from the city council, the city's permit granting authority, to construct an assisted living facility. As here, Elder Living, Inc. was required to include with its application for a special permit a site plan of the locus showing the proposed improvements. The special permit contained a number of conditions including one (condition 5) that provided that the building shall be of a "Victorian Mansion style as represented by the petitioner at the public hearing. The Community Development Department shall review the final design and building plans which shall include exterior building materials and proposed landscaping...." *Id.* at 764.

The community development department approved a plan that enlarged by eleven percent the proposed building's footprint, moved the foundation walls, added air conditioner cooling towers and trash dumpsters, and modified and enlarged slightly the parking lot. A gazebo (not built) was also added to the plan. After a foundation permit was issued and again after a building permit issued, the plaintiff abutter objected, but the building inspector, the board of appeals, and the Superior Court upheld the permits.

This court reversed, holding that the owner was required to apply for a new special permit for the facility in its presently constructed form. [FN14] We construed condition 5 as contemplating only relatively minor deviations from the original site plan, not substantial changes. "The significant increase in the building's size or footprint and the change (however slight) in the building's actual location upon the locus were changes of substance." *Id.* at 766. [FN15] We also reiterated the rule that a permit granting authority "may not delegate to another board, or reserve to itself for future decision, the determination of an issue of substance" (emphasis supplied). *Tebo v. Board of Appeals of Shrewsbury*, 22 Mass.App.Ct. 618, 624 (1986), *S. C.*, 400 Mass. 464 (1987). See *Weld v. Board of Appeals of Gloucester*, 345 Mass. 376, 378-379 (1963).

The planning "board may not make a substantive amendment [to a special permit] which changes the result of an original deliberative decision, or which grants relief different from that originally granted, without compliance with the relevant notice and hearing requirements." *Tenneco Oil Co. v. City Council of Springfield*, 406 Mass. 658, 659-660 (1990), quoting from *Huntington v. Zoning Bd. of Appeals of Hadley*, 12 Mass.App.Ct. 710, 714 n. 4 (1981). "The clear purpose of the hearing and notice requirements ... is to ensure that zoning authorities act on special permit applications only after the opposing interests have had a fair opportunity to be heard." *Id.* at 660.

In *Chambers*, we did not have occasion to discuss the standard of review applicable to a decision of a permit granting authority on a request for an amendment or modification of a special permit indicating substantial changes to the plan originally approved as part of the special permit. In reaching our decision that substantial modifications require submission of a revised site plan to the permit granting authority and a public hearing, we pointed out that the location, mass, ground coverage and distance from lot lines of Elder Living, Inc.'s assisted living facility "are of particular and prime importance to neighboring property owners.... The zoning ordinance ... requires that a site plan submitted in conjunction with an application for a special permit depict the size and location of proposed structures. We think it reasonable to assume, therefore, that, when a board is asked to exercise its discretion to grant a special permit, the site plan submitted by the owner or developer should accurately reflect the proposed facility in this and other key regards." *Chambers v. Building Inspector of Peabody*, 40 Mass.App.Ct. at 766-767.

Implicit in the discussion in *Chambers* is that on submission of the revised plan, the permit granting authority must again exercise its discretion in weighing the factors relevant to a decision. Indeed, as previously indicated, the remedy ordered in that case was to give the owner "a reasonable opportunity to apply to the city council for a *new* special permit for the facility ..." (emphasis supplied). *Id.* at 769. Whether we term the application as a modification of a special permit or a new one, the matter involves the discretion of the planning board. The trustees are not entitled to approval as a matter of right. Accordingly, we reject the trustees' suggestion based on *Quincy v. Planning Bd. of Tewksbury*, 39 Mass.App.Ct. 17, 21-22 (1995),

[FN16] that the planning board's review of the proposed modification implicates only the hearing requirements and not the discretionary review standards applicable to special permits.

3. *Review of planning board's action.* The standard of review for a special permit, as correctly described by the Land Court judge, requires the judge to make independent findings on the evidence presented to the judge, and to determine, based on that evidence, the legal validity of the decision of the

permit granting authority. However, "it is the 'board's evaluation of the seriousness of the problem, not the judge's, which is controlling.'" *Subaru of New England, Inc. v. Board of Appeals of Canton*, 8 Mass.App.Ct. 483, 488 (1979), quoting from *Copley v. Board of Appeals of Canton*, 1 Mass.App.Ct. 821 (1973). See *Britton v. Zoning Bd. of Appeals of Gloucester*, 59 Mass.App.Ct. 68, 76 (2003). As set forth in *Davis v. Zoning Bd. of Chatham*, 52 Mass.App.Ct. 349, 355 (2001):

"Even if the record reveals that a desired special permit could lawfully be granted by the board because the applicant's evidence satisfied the statutory and regulatory criteria, the board retains discretionary authority to deny the permit ..., so long as that denial is not based upon a legally untenable or arbitrary and capricious ground" (citations omitted).

Although we apply the standard of review applicable to a special permit in determining whether, in this case, the decision denying approval of the site plan was arbitrary, a number of considerations must be taken into account: approval for a house had been given for lot 20; revisions to the original special permit plan were necessary as a result of the superceding order of DEP; encroachments on the perimeter buffer zone were originally envisioned for the septic system if needed, albeit in a different location, and also for the driveway [FN17]; and the septic system originally approved by the board of health was for a four-bedroom house and at least three other houses within the CCD had septic systems designed for four-bedroom houses.

The reasons given in 2001 by the planning board in denying modification of the special permit were:

"1) The septic system was moved from the site originally approved in the decision and located within the buffer area;

"2) The revised design and location of the septic system does not satisfy [the provision of the zoning by-law] that the development is designed to take into consideration the natural terrain of the tract;

"3) The relocated driveway is located within the 100' buffer zone [[FN18]];

"4) [This reason involved an access dispute which has been resolved.]

"5) The proposed retaining wall was not contemplated in the original approved decision." [FN19]

The evidence indicated that if the garage were moved and if the footprint of the house were smaller, the encroachments into the buffer zone by the septic system and the driveway would be reduced. On this basis, despite the cited

considerations favoring approval, we cannot say the denial of an amendment to the 1992 special permit to allow the April, 1999 site plan was arbitrary, capricious, or based on legally untenable grounds. The judge appears to have upheld the planning board on the basis that a two-bedroom house with a septic system designed for such a house would be feasible. At oral argument, the trustees indicated a willingness to construct a two-story house with the original 2000-foot footprint.

We need not decide whether the rejection of any plan for a four-bedroom house would likely be arbitrary. We point out, however, that the considerations taken into account in this case by us as a reviewing court must also inform any future decision of the planning board on a new application for a special permit. [FN20]

In conclusion, we affirm the Land Court's decision that the site plan containing substantial changes occasioned by the redefining of the wetlands required an amendment of the special permit by the planning board, and that the decision of the planning board to deny the application to amend the 1992 special permit was not arbitrary, capricious, or based on legally untenable grounds. Because the building plans were not given to the building commissioner, we also affirm the Land Court's affirmance of the zoning board's decision, in turn affirming the denial of a building permit. [FN21]

Judgments affirmed.

FN1. Stephen M. McInnis.

FN2. Under declaration of trust dated December 31, 1984, recorded with the Middlesex South District registry of deeds in book 15949, page 419.

FN3. William A. Barlow & another, trustees, vs. Board of Appeals of Wayland.

FN4. In the Land Court there were two appeals under G.L. c. 40A, § 17. One was from a zoning board of appeals decision upholding a denial by the building commissioner of a building permit for lot 20, in part because of the absence of an approved site plan. The other appeal was from the denial by the planning board of a special permit to approve the site plan.

FN5. See G.L. c. 40A, § 9.

FN6. The provision stated: "Each lot shall be cleared and disturbed only to the extent necessary for the construction of the house, driveway, septic system, and associated improvements. To assure such minimal clearing and disturbance and other site and construction related requirements, the owner/developer of each lot shall submit site development and house plans to the Planning Board for its approval prior to undertaking any work on the lot. The site development plan shall include a description of how natural resources will be protected during construction. The Planning Board shall review and submit a decision on each such site development and house plan within 21 calendar days of their submission to the Board."

FN7. The requirement of a site plan was thus imposed as a condition of the special permit and not by the zoning by-law. Article 601.2.2 of the zoning by-law explicitly exempts CCD proposals from the by-law requirement of a site plan by providing: "SPA [site plan approval] shall not be required for any proposal subject to Article 18, Conservation Cluster Development District." Article 1804.1, however, authorizes the planning board to "impose as a condition of the special permit further restrictions, conditions and safeguards."

FN8. The record does not indicate what triggered the superceding order.

FN9. The planning board denied approval of the March plan "because the proposed locations of the driveway and public sidewalk are not equivalent to their locations on the approved special permit plans...."

FN10. The April plan was disapproved "because the proposed location of the septic system is within the buffer and not consistent with the Special Permit approval issued 9/4/92. Also the proposed driveway falls within the 50' buffer zone of the site." The disapproval letter also mentions concerns of the fire and highway departments.

FN11. We will discuss the planning board's reasons in part 3 of this opinion.

FN12. The judge also found that the April, 1999 plan was for a four-bedroom house while the special permit indicated a two-bedroom house. There is no record support for that finding as the footprint on the special

permit plan did not indicate whether the plan was for a one-story or a two-story building. Moreover, the engineer who drew the septic system, approved by the board of health in 1996 before the change in the wetlands determination, testified that the board of health approval was for a four-bedroom house. He also testified that he designed the septic system for three other houses in the CCD, and that they were for four-bedroom homes.

FN13. The trustees challenge the validity of this regulation. The challenge, however, is without merit. It appears that the issue was not argued below, and hence may not be raised for the first time on appeal. Moreover, contrary to the trustees' contention, the CCD provisions give the planning board wide scope. The planning board not only has authority to issue regulations but also may impose restrictions, conditions and safeguards to protect the general welfare. See Article 1804.1. The fifty-foot buffer is not in conflict with the by-law, which sets forth only a *minimum* set back requirement.

FN14. Apparently, the facility was completed prior to the plaintiff's appeal to this court.

FN15. The decision also held that the changes fell within the prohibition of another condition of the special permit providing that "there shall be no structural additions to said premises." *Chambers v. Building Inspector of Peabody*, 40 Mass.App.Ct. at 766.

FN16. In *Quincy v. Planning Bd. of Tewksbury*, 39 Mass.App.Ct. at 20-21, the applicant had to follow procedural requirements of a special permit as provided by the by-law, but those portions of the by-law that required the application of discretionary special permit standards by the planning board were void as the proposed use was one permitted as of right.

FN17. The judge found that on the original special permit plan the driveway was 440 feet long with approximately 370 feet situated within the perimeter buffer. The driveway on the April, 1999 plan was 530 feet long and resulted in an additional sixteen feet within the buffer.

FN18. This is the Wayland Conservation Commission buffer.

FN19. There was uncontroverted evidence that the sidewalk in the original special permit plan was in the same location as shown on the April, 1999 plan, and that the original plan had no details for the sidewalk. Thus it appears the original plan would have required a retaining wall.

FN20. In view of these considerations, the planning board will no doubt be hesitant in rejecting all plans for a four-bedroom house having the size of the original footprint.

FN21. In the view we take of this case, the planning board's decision was directly appealable under G.L. c. 40A, § 17, and not via the zoning board.

❏ Term ❏

Doc 1 of 14❏



TOWN OF WAYLAND
MASSACHUSETTS
01778
CONSERVATION COMMISSION

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3669

Wayland's Wetlands and Water Resources Bylaw
CHAPTER 194 - Resource Area Determination

265 Concord Road, October 26, 2006

Assessor's Map 007, Parcel No. 058F

(Also DEP File 322-646)

Project Description: An application seeking the definition of certain areas subject to protection under the Wetlands Protection Act, M.G.L. c. 131, s. 40 and the Town of Wayland's Wetlands and Water Resources Bylaw, Chapter 194 of the Code of the Town of Wayland ("Chapter 194") at 265 Concord Road, Wayland, MA, Assessor's Map 007, Parcel No. 058F (the "Site").

Plan Reference/s: Sheet 1 of 2, "Resource Area Location Plan", Lot 20 265 Concord Road Wayland, Massachusetts, Prepared for Bill Barlow 2 Roseland Avenue Warren, RI, November 23, 2005, Rev. 9/15/06; 9/25/06, Foresite Engineering Associates, Inc., Scott P. Hayes, P.E. (No. 41017); and Sheet 2 of 2, "Resource Area Location Plan", Lot 20 265 Concord Road Wayland, Massachusetts, Prepared for Bill Barlow 2 Roseland Avenue Warren, RI, November 23, 2005, Rev. 9/15/06; 9/25/06, Foresite Engineering Associates, Inc., Scott P. Hayes, P.E. (No. 41017), Received by Wayland Conservation Commission Sep 27 2006.

Procedural: The Conservation Commission received the application for resource area delineation from Bill Barlow, 2 Rosewood Avenue Warren Rhode Island on December 1, 2005. At the first session of the public hearing the Commission noted that delineations, under Bylaw Regulation, could not be finalized between November through April of any year. The public hearing was opened on December 15, 2005. The hearing was continued a number of times. The matter was discussed at the continued public hearing session on February 1, 2006 at the continued public hearing session on April 11, 2006, at the continued public hearing session on September 21, 2006 and at the continued public hearing session on October 5, 2006 at which time the public hearing was closed.

The Conservation Commission sought the services of a Soil Scientist to review the wetlands line prepared by the applicant's consultant. That consultant was P. Fletcher. Mr. Fletcher made a number of visits to the site to observe conditions, the soils, and to look at levels of ground water. P. Fletcher was on the Site on May 4, 2006, May 9, 2006, May 23, 2006, June 5, 2006, and June 14, 2006.

During the session on September 21, 2006 of the continued public hearing the Commission asked for a plan showing the wetlands line as defined by Peter Fletcher as well as the wetland line defined by Charles Caron, consultant for Bill Barlow. The plan submitted, referenced in this decision, is without sufficient information to determine if the work was based upon a field survey or what the flagging was intending to depict. The Conservation Commission, at the continued public hearing on October 5, 2006 questioned Mr. Barlow about the source of the

- p. Land on the Site within 100 feet of wetlands flagged on other properties is buffer zone.
- q. The Town's consultant identified a small wetland at 263 Concord Road, which has a buffer zone that extends onto the Site.
- r. Buffer zone is a resource area protected by Chapter 194.
- s. Buffer zone, as defined by Chapter 194, has not been properly defined on any plan for the Site.
- t. The Commission has not made any finding with respect to vernal pools on or adjacent to the site. There were no certified vernal pools on the MA Natural Heritage and Endangered Species Atlas dated 2003. The most recent MA NHES Atlas is dated October 1, 2006.
- u. There is a Certified Vernal Pool in a wooded area generally east of the open fields at the Site.

CONSERVATION COMMISSION CONCLUSION:

- 1. The wetland delineation on the plan referenced in this decision is not accepted as an accurate depiction of wetlands protected by Chapter 194.
- 2. Based on an assumption that the indicated location of the top of bank is an accurate depiction of the mean annual high water elevation, the riverfront area delineation is accepted as an accurate depiction.
- 3. The Conservation Commission recognizes the flagging done by Mr. Fletcher as of June 28, 2006 as an accurate delineation of the wetlands on the Site as well as wetlands at 263 Concord Road, which result in a buffer zone on the Site.
- 4. Land subject to flooding and inundation appears to the Commission to be present on the Site area covered by this application although the delineation of this resource area has not been depicted on the plan referenced in this decision or at the Site.
- 5. Buffer zone has not been properly defined on the plan referenced in this decision.
- 6. Based on the presence of areas subject to intermittent inundation for periods during the year the Commission finds that there may be vernal pools on the Site – no evidence was provided to document that the Site had been evaluated for vernal pool species.
- 7. There is at least one perennial stream, generally to south of the Site.
- 8. There is riverfront area on the Site.

This decision is not valid without a notarized signature sheet. The page numbering does not include the notarized sheet.

This Permit expires on October 26, 2009.

DEFINITIONS

AND

ASSUMPTIONS

APPRAISAL LEXICON

MARKET VALUE

"The most probable price, which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is consummation of a sale as of a specified date and passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are motivated;
2. Both parties are well informed or well advised and each acting in what he considers his own best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars, or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing, or sales concessions granted by anyone associated with the sale." (1)

FEE SIMPLE ESTATE

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat. (2)

HIGHEST AND BEST USE

The reasonably probable and legal use of vacant land or an improved property, that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility and maximum productivity. Alternatively, the probable use of land or improved property – specific with respect to the user and timing of the use – that is adequately supported and results in the highest present value. (3)

LEASED FEE INTEREST

A freehold (ownership interest) where the possessory interest has been granted to another party by creation of a contractual landlord-tenant relationship (i.e., a lease). (4)

MARKETING TIME

An opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal. Marketing time differs from exposure time, which is always presumed to precede the effective date of an appraisal. (5)

(1) FIRREA 12 CFR Part 323.2.

(2) The Dictionary of Real Estate Appraisal, Appraisal Institute, Chicago, IL, 2010, Fifth Edition - Page 78.

(3) Ibid. - 93.

(4) Ibid. - 111.

(5) Ibid. - 121.

MARKET RENT

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements (TIs). (6)

EXPOSURE TIME

1. The time a property remains on the market.
2. The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based on an analysis of past events assuming a competitive and open market. (7)

PROSPECTIVE OPINION OF VALUE

A value opinion effective as of a specified future date. The term does not define a type of value. Instead, it identifies a value opinion as being effective at some specific future date. An opinion of value as of a prospective date is frequently sought in connection with projects that are proposed, under construction, or under conversion to a new use, or those that have not yet achieved sellout or a stabilized level of long-term occupancy. (8)

RETROSPECTIVE OPINION OF VALUE

A value opinion effective as of a specified historical date. The term does not define a type of value. Instead, it identifies a value opinion as being effective at some specific prior date. Value as of a historical date is frequently sought in connection with property tax appeals, damage models, lease renegotiation, deficiency judgments, estate tax, and condemnation. Inclusion of the type of value with this term is appropriate, e.g., "retrospective market value opinion." (9)

(6) Ibid. - 121.

(7) Ibid. - 73.

(8) Ibid. - 153.

(9) Ibid. - 171.

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made with the following general assumptions:

1. This is a narrative Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an Appraisal Report. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraisers are not responsible for the unauthorized use of this report.
2. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
3. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
4. Responsible ownership and competent property management are assumed.
5. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
6. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
7. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
8. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
9. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the appraisal report.

10. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
11. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.

This appraisal report has been made with the following general limiting conditions:

1. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocation of land and building must not be used in conjunction with any other appraisal and are invalid if used.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication.
3. The appraiser, by reason of this appraisal, is not required to give further consultation, testimony, or be attendance in court with reference to the property in question unless arrangements have been previously made.
4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
5. Any value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division of interests has been set forth in the report.
6. The forecasts, projections, or operating estimates contained herein are based upon current market conditions, anticipated short-term supply and demand factors, and a continued stable economy. These forecasts are, therefore, subject to changes in future conditions.

QUALIFICATIONS

<p style="text-align: center;">QUALIFICATIONS OF KEITH F. SHONEMAN REAL ESTATE APPRAISER</p>
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EDUCATION

- BS. Penn State University, University Park, Pennsylvania
- MS and PhD, University of Delaware, Newark, Delaware
- Appraisal Institute
 - USPAP 7-hour Update 2014
 - New Appraiser Quality Monitoring 2013
 - Income Approach for Residential Appraisers 2013
 - Uniform Appraisal Dataset Update 2013
 - Marketability Studies 2012
 - Residential Market – Impact of Current Conditions 2012
 - Business Practice and Ethics 2011
 - UAD Dataset from Fannie and Freddie 2011
 - Advanced Residential Report Writing and Case Studies 2008
 - Adv. Residential Applications and Case Studies, Pt. 1 2008
 - Advanced Residential Report Writing, Pt. 2 2008

PROFESSIONAL AND TRADE AFFILIATIONS

Appraisal Institute – SRA Member

DESIGNATIONS AND AFFILIATIONS

Massachusetts Certified Residential Real Estate Appraiser #70844

BUSINESS EXPERIENCE

Professional real estate appraiser has 10 years of experience in the valuation of residential real estate. Certified as a residential appraiser, Mr. Shoneman has worked as a contract appraiser and as an employee for Avery Associates throughout his career. Appraisal assignments have primarily focused on divorce, estate, relocation, financial planning, and new construction for consumer banks. Assignments have included single-family residential properties, land appraisal, 1-4 family properties, and small business properties. Mr. Shoneman has worked in Middlesex, Essex, and southern and northern Worcester counties of Massachusetts. Prior to his present affiliation as an employee of Avery Associates, Acton Massachusetts, Mr. Shoneman provided contract services to The Porcaro Group of Southboro, Massachusetts.

2003-present	Appraiser, Avery Associates Acton, Massachusetts
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BUSINESS ADDRESS

Avery Associates
282 Central Street
Post Office Box 834
Acton, MA 01720-0834
Tel: 978-263-5002 Fax: 978-635-9435 Cell: 978-376-0080
kshoneman@verizon.net

AVERY ASSOCIATES
REAL ESTATE APPRAISERS - COUNSELORS

<p style="text-align: center;">QUALIFICATIONS OF JONATHAN H. AVERY REAL ESTATE APPRAISER AND CONSULTANT</p>

EDUCATION

- BBA University of Massachusetts, Amherst, Massachusetts
- Graduate of Realtors Institute of Massachusetts - GRI
- American Institute of Real Estate Appraisers
 - Course 1-A Basic Appraisal Principles, Methods and Techniques
 - Course 1A-B Capitalization Theory and Techniques
 - Course 2 Basic Appraisal of Urban Properties
 - Course 6 Real Estate Investment Analysis
 - Course 410/420 Standards of Professional Practice

PROFESSIONAL AND TRADE AFFILIATIONS

- The Counselors of Real Estate
 - 1985 - CRE Designation #999
 - 1993 - Chairman, New England Chapter
 - 1995 - National Vice President
 - 1999 - National President
- Appraisal Institute
 - 1982 - Member Appraisal Institute - MAI Designation #6162
 - 1975 - Residential Member - RM Designation #872
 - 1977 - Senior Residential Appraiser - SRA Designation
 - 1981 - Senior Real Property Appraiser - SRPA Designation
 - 1986-1987 - President, Eastern Massachusetts Chapter
 - 1992 - President, Greater Boston Chapter
 - 1995 - Chair, Appraisal Standards Council
 - 1996-1998 - Vice Chair, Appraisal Standards Council
- Massachusetts Board of Real Estate Appraisers
 - 1972 - MRA Designation
 - 1981 - President of the Board
- Royal Institution of Chartered Surveyors
 - 2005 - FRICS Designation
- Affiliate Member, Greater Boston Real Estate Board
- Licensed Real Estate Broker - Massachusetts 1969
- Massachusetts Certified General Real Estate Appraiser #26
- New Hampshire Certified General Real Estate Appraiser #NHGC-241

BUSINESS EXPERIENCE

Mr. Avery is Principal of the firm of Avery Associates located in Acton, Massachusetts. Avery Associates is involved in a variety of real estate appraisal and consulting activities including: market value estimates, marketability studies, feasibility studies, and general advice and guidance on real estate matters to public, private and corporate clients. Mr. Avery has served as arbitrator and counselor in a variety of proceedings and negotiations involving real estate. During 1993, he served as an appraisal consultant for the Eastern European Real Property Foundation in Poland. He has been actively engaged in the real estate business since 1967 and established Avery Associates in 1979. Prior to his present affiliation, Mr. Avery served in the following capacities:

AVERY ASSOCIATES

REAL ESTATE APPRAISERS - COUNSELORS

- 1978-1979 Managing Partner, Avery and Tetreault,
Real Estate Appraisers and Consultants
- 1975 -1978 Chief Appraiser, Home Federal Savings and Loan Association
Worcester, Massachusetts
- 1972-1975 Staff Appraiser, Northeast Federal Saving and Loan Association
Watertown, Massachusetts
- 1971-1972 Real Estate Broker, A. H. Tetreault, Inc.
Lincoln, Massachusetts

TEACHING EXPERIENCE

- Instructor, Bentley College, Continuing Education Division, 1976-1982;
Appraisal Methods and Techniques
Computer Applications for Real Estate Appraisal
- Approved Instructor Appraisal Institute - since 1982
- Chapter Education Chairman 1986-1987
- Seminar Instructor; Massachusetts Board of Real Estate Appraisers since 1981
- Certified Appraisal Standards Instructor-Appraiser Qualifications Board

PROFESSIONAL EXPERIENCE

Qualified expert witness; Middlesex County District Court and Superior Court, Essex County Superior Court, Norfolk County Superior Court, Plymouth Superior Court, Worcester County Probate Court, Federal Tax Court, Federal Bankruptcy Court, Appellate Tax Board of Massachusetts and Land Court of Massachusetts. Member, Panel of Arbitrators - American Arbitration Association, National Association of Securities Dealers Regulation.

Property Assignments Include:

Land (Single Lots and Subdivisions)
One to Four Family Dwellings
Apartments
Residential Condominiums
Office Buildings
Restaurants
Industrial Buildings
Racquet Club
Petroleum Fuel Storage Facility
Lumber Yard
School Buildings

Historic Renovations
Movie Theater
Conservation Easements
Hotels and Motels
Shopping Centers
Golf Courses
Churches
Gasoline Service Stations
Farms
Office Condominiums
Automobile Dealerships

BUSINESS ADDRESS

Avery Associates
282 Central Street
Post Office Box 834
Acton, MA 01720-0834
Tel: 978-263-5002 Fax: 978-635-9435
jon@averyandassociates.com

AVERY ASSOCIATES
REPRESENTATIVE LIST OF CLIENTS

FINANCIAL INSTITUTIONS

Avidia Bank
Bank of New England
East Boston Savings Bank
Cambridge Savings Bank
Belmont Savings Bank
Berkshire Bank
North Shore Bank
Enterprise Bank & Trust
First Pioneer Farm Credit
North Middlesex Savings Bank
Middlesex Federal Savings
Marlborough Savings Bank
Middlesex Savings Bank
Bank of New York
Rollstone Bank & Trust
Salem Five Cent Savings Bank
Webster Five Cents Savings Bank
TD Bank, N.A.
Workers Credit Union

PUBLIC SECTOR/NONPROFIT

American Arbitration Association
Emerson Hospital
Essex County Greenbelt Association
Internal Revenue Service
Mass Audubon
Mass. Dept. of Conservation/Recreation
Massachusetts Dept. of Agricultural Resources
MassDevelopment
MassHousing
Stow Planning Board
Sudbury Valley Trustees
The Nature Conservancy
The Trust for Public Land
Town of Acton
City of Marlborough
Town of Concord
Town of Lexington
Trustees of Reservations
U. S. Department of Interior
U.S. Department of Justice
U.S. Forest Service
Walden Woods Project
Water Supply District of Acton

CORPORATIONS

Avalon Bay Communities
Boston Golf Club, Inc.
Boston Medflight
W. J. Graves Construction Co., Inc.
Concord Lumber Corporation
Dow Chemical Company
Exxon Mobil Company
Fidelity Real Estate
John M. Corcoran & Co.
Marvin F. Poer and Company
McDonald's Corporation
Zoll Medical Corp.
PriceWaterhouseCoopers
Ryan Development
Sun Life Assurance Company
The Mathworks, Inc.
Toyota Financial Services
U.S. Postal Service

LAW FIRMS & FIDUCIARIES

Anderson & Kreiger LLP
Kates and Barlow
Choate, Hall & Stewart
Edwards, Angel, Palmer & Dodge
DLA Piper, LLP
Goodwin Procter
Rackemann, Sawyer & Brewster
Foley Hoag, LLP
Hemenway & Barnes
Holland & Knight
Kirkpatrick Lockhart Nicholson Graham
Kopelman & Paige, P.C.
Lee, Rivers & Corr, LLP
Sally & Fitch
Nutter, McClennen & Fish, LLP
Lynch, Brewer, Hoffman & Fink, LLP
Office of Stephen Small
Peabody & Arnold, LLP
Prince, Lobel, Glovsky & Tye
Rierner & Braunstein, LLP
Ropes & Gray
Stern, Shapiro, Weissberg & Garin
WilmerHale

