

TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENTS AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009, amending MGL Chapter 30A

NAME OF PUBLIC BODY – COMMITTEE, BOARD OR COMMISSION:

REGULAR MEETING AGENDA COMMUNITY PRESERVATION COMMITTEE

13 JUL '23 AM 9:23
BARNSTABLE TOWN CLERK

DATE OF MEETING: Monday, July 17, 2023

TIME: 6:30 p.m.

PLACE: James H. Crocker Jr. Hearing Room, 2nd Floor
Town Hall, 367 Main Street, Hyannis

Call to Order: Introduction of Community Preservation Committee Members

Please note that tonight's meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s. 20, the Chair must inquire whether anyone is taping this meeting and to please make their presence known

Minutes:

- Approval of the Draft Community Preservation Committee Regular Meeting Minutes from June 26, 2023.

Letters of Intent:

None received.

Applications:

- Application received from Barnstable Land Trust (BLT) requesting \$905,000 in Community Preservation Unreserved Funds for acquisition of a Conservation Restriction on Lots 3 and 4, totaling 5.5 acres and is a portion of 150 Wheeler Road, Marstons Mills fronting on Middle Pond. An application for a Massachusetts Land Grant for \$480,000 has been submitted by the Town of Barnstable and will reimburse the Community Preservation Fund if granted. Entire project cost for purchase of 4 lots totaling 9.5 acres by BLT is \$1,825,000 with a Conservation Partnership grant of \$175,000 applied for by BLT to fund acquisition of Lot 1. Lot 2 will be acquired through funds raised by private foundations and donors.

Correspondence Received:

- CP Fund Balances as of June 30, 2023– Director of Finance Mark Milne

Project Updates:

- Barnstable Land Trust - Bowles Field Conservation Restriction \$150,000 acquisition. Closing took place on June 29, 2023.
- An appraisal for 2320 Meetinghouse Way, West Barnstable was ordered and received. Further studies of the property for water purposes and community housing are underway.

Member Discussion:

- Changes to the CPC process/requirements.

Public Comment:

General Discussion:

Adjournment:

Next Regularly Scheduled CPC Meeting August 21, 2023, 5:30 p.m.

Please Note: The list of matters is those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Committee may go into executive session. The Committee may also act on items in an order other than they appear on this agenda. Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA

For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

Minutes:

- Approval of the Draft Community Preservation Committee Regular Meeting Minutes from June 28, 2023.

Letters of Intent:

None received.

Applications:

- Application received from Barnstable Land Trust (BLT) requesting \$805,000 in Community Preservation Unreserved Funds for acquisition of a Conservation Restriction on Lots 3 and 4, totaling 8.5 acres and is a portion of 150 Wheeler Road, Marston Mills fronting on Middle Pond. An application for a Massachusetts Land Grant for \$480,000 has been submitted by the Town of Barnstable and will reimburse the Community Preservation Fund if granted. Entire project cost for purchase of 4 lots totaling 8.5 acres by BLT is \$1,825,000 with a Conservation Partnership grant of \$175,000 applied for by BLT to fund acquisition of Lot 1. Lot 2 will be acquired through funds raised by private foundations and donors.

Correspondence Received:

- CP Fund Balances as of June 30, 2023 – Director of Finance Mark Milne

Project Updates:

- Barnstable Land Trust - Bowles Field Conservation Restriction \$150,000 acquisition. Closing took place on June 28, 2023.
- An appraisal for 2320 Meetinghouse Way, West Barnstable was ordered and received. Further studies of the property for water purposes and community housing are underway.



Town of Barnstable
COMMUNITY PRESERVATION COMMITTEE



www.town.barnstable.ma.us/CommunityPreservation

Email: CommunityPreservationCommittee@town.barnstable.ma.us

Committee Members

Lindsey B. Counsell – Chair • Tom Lee – Vice Chair • Marilyn Fifield – Historical Commission • Terry Duenas – At Large • Katherine Garofoli – At Large
 Stephen Robichaud– Planning Board • Tom Lee – Conservation Commission • James Tenaglia – Recreation Commission
 Deborah Converse – Housing Authority • Farley Lewis – At Large • Jessica Rapp Grassetti – Town Council Liaison

Monday, June 26, 2023
Regular CPC Meeting DRAFT Minutes
Remote Access Meeting via Zoom Link: <https://zoom.us/j/87190260687>
5:30 PM

Lindsey Counsell – Chair	Present
Marilyn Fifield – Clerk	Present
Terry Duenas	Present
Tom Lee-Vice Chair	Present
Katherine Garofoli	Present
James Tenaglia	Present
Deborah Converse	Absent
Stephen Robichaud	Absent
Farley Lewis	Present
Jessica Rapp Grassetti – TC Liaison	Present

With a quorum present, Chair Lindsey Counsell called the meeting to order at 5:30 pm and read: “Please note that tonight’s meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s.20, I must inquire whether anyone is taping this meeting and to please make their presence known.” No one present was recording the meeting.

Call to Order (Roll Call)

Present: Terry Duenas – **yes**, Marilyn Fifield – **yes**, Katherine Garofoli – **yes**, Tom Lee – **yes**, James Tenaglia – **yes**, Farley Lewis – **yes**, and Lindsey Counsell - **yes**. [Stephen Robichaud and Deb Converse absent]

Chair Counsell noted that this would be James Tenaglia’s last CPC meeting and thanked him for his hard work as a member of the Community Preservation Committee. CPC members also wished him well.

Minutes

The motion of Farley Lewis to approve the April 24, 2023, Regular Community Preservation Committee Meeting Minutes as submitted was seconded by Marilyn Fifield. Motion carried with a roll call vote: **Yes 7, No – 0.**

Letter of Intent:

- **Letter of Intent from Barnstable Land Trust (BLT) requesting \$905,000 in Community Preservation Funds for acquisition of a Conservation Restriction on Lots 3 and 4 to be granted by BLT, totaling a 5.5 acre portion of property at 150 Wheeler Road, Marstons Mills, fronting on Middle Pond. An application for a Massachusetts Land Grant of \$480,000 will be submitted and will reimburse the Community Preservation Fund, if granted. The entire project cost for purchase of 9.5 acres by BLT is \$1,825,000, with BLT to seek a Conservation Partnership grant of \$175,000 to fund acquisition of Lot 1, while Lot 2 will be acquired through funds raised by private foundations and donors.**

Ms. Janet Milkman, Director of Barnstable Land Trust, noted that this Wheeler acquisition project has been in the works for quite a long time, saying that the Wheeler family had reached out to BLT a few years ago and recently agreed that they want the property to be held in conservation in perpetuity. She explained that a Purchase and Sales Agreement has been negotiated, with an appraisal of \$2.5M for the highest and best use value, which would allow for 4 house lots, all with pond frontage. She said she felt fortunate to have negotiated the \$1.825M price, although still a heavy lift. Ms. Milkman described the property as amazing, with many conservation values as outlined in the Letter of Intent. Ms. Milkman then narrated a PowerPoint presentation that explained the locus of the property in relation to the three Indian ponds and access from Wheeler Road off Race Lane. The PowerPoint illustrated that the Wheeler property directly abuts the 22-acre Fuller Farm owned by BLT, and a preliminary potential trail layout could connect other conservation properties and trails for public access, with further investigation still required. She explained that there would not be any parking on the Wheeler property for public access, although parking would be available at the adjacent Fuller Farm. Ms. Milkman said the BLT Letter of Intent seeks Community Preservation Committee support for acquisition of Lots 3 & 4. She explained that the house on Lot 2 would be retained for caretakers, staff or Americorps housing and would be purchased by BLT through private donations, while Lot 1 would be purchased by BLT for conservation, with a Conservation Partnership grant to be sought. Ms. Milkman explained that separating the land into 4 lots allows access to two separate grant sources from the State, with the Town eligible for a Land Grant for lots 3 and 4, while the nonprofit BLT is eligible to apply for a Conservation Partnership grant for Lot 1. Ms. Milkman provided background on the Wheeler property and its history as a holly farm, noting that there are many holly specimens on the property. She also mentioned two other family nursery properties, one in Falmouth and one in Mashpee, that are now owned by conservation non-profits, calling this property the 3rd and last. She described this as an incredible opportunity to protect one of the few large pondfront parcels remaining with critical natural habitat as designated by the State plus a wildlife corridor connecting to the 22-acre Fuller Farm.

CPC members spoke enthusiastically in favor of the project, and Ms. Milkman noted a very short timeline for the project in order to close on the property by June 2024, as agreed with the Wheeler family, with State grant applications to meet the July 13, 2023, deadline supported by an initial CPC vote to proceed. With the timeline closing in a year, she reminded that any grant funding would be made available as reimbursement, with a year to raise the rest of the needed \$800,000. There was discussion regarding the need for a letter from the Conservation Commission; Tom Lee agreed he would discuss.

The motion of Katherine Garofoli was seconded by Tom Lee to move Barnstable Land Trust's Letter of Intent to the Application stage and to support the application of the Massachusetts Land Grant.

Roll Call Vote: Terry Duenas - yes, Marilyn Fifield - yes, Katherine Garofoli - yes, Tom Lee - yes, Farley Lewis - yes, James Tenaglia - yes, and Lindsey Counsell - yes. Motion carried with vote of 7 Yes and 0 No.

Applications:

- **Updated vote of the CPC for reauthorization of Sturgis Library's use of its remaining CP grant balance of \$36,714 for replacement of its archive climate control system.**

The motion of Terry Duenas was seconded by James Tenaglia to approve reauthorization of Sturgis Library's use of \$36,714 in remaining CP grant funds for replacement of its archive climate control system.

Roll Call Vote: Terry Duenas - yes, Marilyn Fifield - yes, Katherine Garofoli - yes, Tom Lee - yes, Farley Lewis - yes, James Tenaglia - yes, and Lindsey Counsell - yes. Motion carried with vote of 7 yes, 0 no.

Correspondence Received:

- CP Fund Balances from Director of Finance Mark Milne.
- Letter of withdrawal from Trustees of Reservations Re: Armstrong-Kelley Park Application.

Project Updates:

Chair Counsell reported the following updates:

- Unitarian Church of Barnstable CPC Application was approved at the April 6, 2023, Town Council public hearing, and funding is available.
- Phases 3 & 4 Cape Cod Rail Trail Applications from DPW were approved at the April 6, 2023, Town Council public hearing, and funding is available.
- Osterville Recreation Playground Application from DPW was approved at the April 27, 2023, Town Council public hearing, and funding is available.
- Barnstable Land Trust's Bowles Field Conservation Restriction \$150,000 acquisition: Conservation Restriction was approved at the June 15, 2023, Town Council meeting, and the closing has been scheduled for June 29, 2023.
- An appraisal for 2320 Meetinghouse Way, West Barnstable, was ordered and received. Further studies of the property will be pursued for water purposes and Community Housing.

Member Discussion:

- Annual Community Preservation Committee public hearing July 17, 2023, at 5:30, with the regular CPC meeting to follow at 6:30 p.m.
- Changes to the CPC process/requirements: There will be upcoming discussion regarding the inclusion of grant agreements in the application process for CPC funding that will spell out the details and conditions of the grant.
- James Tenaglia thanked the Committee members and said he would be following along with CPC activities.

Public Comment:

None

General Discussion:

None

Adjournment:

Motion to adjourn was made by Tom Lee and seconded by Terry Duenas. Roll Call Vote: Terry Duenas – yes; Marilyn Fifield – yes; Tom Lee – yes; Katherine Garofoli – yes; Farley Lewis – yes; James Tenaglia – yes; Lindsey Counsell – yes. Motion carried: Yes – 7, No – 0.

Meeting adjourned at 5:57 p.m.

Next Regularly Scheduled CPC Meeting - July 17, 2023, 6:30 p.m.

Annual Community Preservation Committee Public Hearing - July 17, 2023, 5:30 p.m.

List of documents/exhibits used by the Committee at the meeting:

Exhibit 1 –CPC Agenda, June 26, 2023.

Exhibit 2 –Draft CPC Regular Meeting Minutes from the April 24 2023, meeting.

Exhibit 3 – Letter of Intent – Barnstable Land Trust – Acquisition of Wheeler Road CR

Exhibit 4 – CP Fund Balances from Director of Finance Mark Milne

Exhibit 5 – Letter of withdrawal from Trustees of Reservations Re: Armstrong-Kelley Park Application.

Exhibit 7- PowerPoint Presentation – Barnstable Land Trust – Wheeler Road LOI

Respectfully submitted,

Ellen M. Swiniarski

Community Preservation Coordinator

Planning & Development Department

and edited by CPC Clerk Marilyn Fifield

Please Note: The list of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that, if it so votes, the Committee may go into Executive Session for specified allowable reasons. The Committee may also act on items in an order other than they appear on this agenda.

*** Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA**



July 13, 2023

Lindsey Counsell, Chairman
Community Preservation Committee
Town of Barnstable
367 Main Street
Hyannis, MA 02601

Re: **Wheeler Holly Preserve**
Map Block and Lot: 101/109/002

Dear Lindsey:

This application follows up on the Letter of Intent, approved for full application at the June 26th Community Preservation Committee meeting.

On behalf of the Barnstable Land Trust (BLT), I am submitting the enclosed Community Preservation Act application for funding of \$905,000 for the purchase of conservation restriction on a 5.5-acre property known as the Wheeler Holly Preserve (Lots 3 and 4) at 150 Wheeler Road, Barnstable, as part of a conservation project in which Barnstable Land Trust will purchase the property. The full project includes an additional adjacent 4 acres owned by the same family, which Barnstable Land Trust will purchase for conservation.

The Town has applied for a MA Division of Conservation Services, Local Acquisitions for Natural Diversity (LAND) Grant, which, if awarded, would cover 54%, or \$488,000 of the funds potentially provided through the Community Preservation Committee.

We hope the Community Preservation Committee will want to invest in protection of this important scenic natural resource, and passive recreational area by providing a CPA grant to this project.

If you have any questions regarding this application, or request additional information, please contact me at 508-771-2585 x 101.

Sincerely,

A handwritten signature in black ink that reads "Janet Milkman". The signature is written in a cursive, flowing style.

Janet Milkman
Executive Director

CPC APPLICATION

Submission Date: 7/13/23
Project Title: Wheeler Holly Preserve
Project Map / Parcel Number: 101/109/002– a portion thereof per attached plan
Estimated Start Date: 09/01/22
Estimated Completion Date: 06/12/24

Purpose (please select all that apply):

Open Space **Public**
Community Housing Private
Historic **Non-Profit**
Recreation **Partnership** (Describe below #3)
Town Affiliation**
(*Applications must be approved by the Town Manager prior to submission)

Applicant Contact:

Name: Janet Milkman, Executive Director
Organization (if applicable): Barnstable Land Trust, Inc.
Address: 1540 Main Street, West Barnstable, MA 02668
Daytime Phone #: (508) 771-2585 x 101
E-mail address: janet@blt.org

Primary Contact (if different from applicant contact): same

Budget Summary:

Total budget for project: \$1,866,250
CPA funding request: \$ 905,000
Matching funds: MA LAND grant - \$488,000, applied 7/13

Other funding sources: MA Conservation Partnership Grant - \$175,000, applied 7/17, and BLT private fundraising - \$786,250

Please address the following questions:

1. Project summary (description and goals):

Barnstable Land Trust seeks to purchase the Wheeler family’s 9.5-acre pond front parcel of pine-oak forest on Wheeler Road in Marstons Mills. The project will expand the adjacent 22-acre Fuller Farm conservation area already owned by Barnstable Land Trust, Inc. (BLT) in the historic Ponds ville area of Barnstable. BLT has an agreement to purchase all 9.5 acres from the

Wheeler family in June of 2024, including their small c.1939 Cape Cod style home, and will grant a CR to the Town on the eastern 5.5 acres abutting the preserved Fuller Farm. A half-mile public walking trail will be created on the 9.5-acre property, adding to the 1-mile trail loop on Fuller Farm. While BLT would manage the land for conservation and passive recreation, the Town's CR will guarantee public access for trail use. BLT intends to use the existing house for BLT staff/caretaker housing on the property.

2. How does this project help preserve Barnstable's character?

Protecting this property will preserve the natural forest land abutting Middle Pond and provide public access to an iconic natural setting. It will preserve historic holly specimens from the landmark Wheeler holly nursery.

3. Partnership(s) Description:

Barnstable Land Trust would own the property and the Town would hold the CR. If desired by the Town, the Compact of Cape Cod Conservation Trusts will co-hold the CR and provide monitoring and reporting for the Town.

4. Provide a detailed project timeline:

The project is scheduled to close in June 2024. Barnstable Land Trust has worked with the Town to apply for the two state grants, one for the Town and one for BLT, with deadlines in mid-July and BLT will begin private fundraising this summer. The conservation restriction has been drafted and will be reviewed by the state in time for Town Council approval before the June closing.

5. How does this project meet the General Criteria and Category Specific Criteria for CPC projects?

General Criteria

- *Consistency with the Local Comprehensive Plan and other planning documents that have received wide scrutiny and input and have been adopted by the town;*
 - Consistent with Final Vision Plan of LCPC, including to “Protect, restore and enhance priority natural habitats, salt and fresh water resources, and open spaces” and “Build on our outstanding recreational opportunities and enhance access to open spaces while also ensuring no environmental harm as recommended by the open space and recreation plan.”
 - Consistent with Goal 1 of Open Space and Recreation Plan (OSRP) to protect and maintain a maximum amount of open space to enhance environmental protection, recreational opportunities, and community character.
 - Consistent with Goal 2 of OSRP: Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, preserve historic, scenic and cultural resources, and provide opportunities for farming and agriculture.
Consistent with following sub-goals:
 - 2.2 Coordinate open space protection measures with efforts to protect wildlife habitat and augment the Town's green corridors and spaces

and 2.3 Coordinate open space protection measures with efforts to protect fresh and marine wetlands and surface waters.

- Consistent with Goal 3 of OSRP: Provide diverse recreational opportunities and access throughout Barnstable and ensure that the current and future needs of all user groups are met appropriately, and the following subgoals:
 - 3.5 Provide adequate passive recreation facilities and programs; 3.6 Coordinate planning for the Town’s greenway network to maximize opportunities for trailways, bikeways, Cape Cod Pathways, and connections between open spaces.
- *Preservation of the essential character of the town*; Property purchase will preserve land to protect an iconic forested pond front and home to nearly a century of holly nursery farming.
- *Save resources that would otherwise be threatened and/or serve a currently under-served population*; conservation would protect land threatened by development. Without conservation, the property could be subdivided into a total of four lots (two on the 5.5 acres) for development.
- *Demonstrate practicality and feasibility and demonstrate that they can be implemented expeditiously and within budget*; based on decades of expertise, experience, and flexibility at BLT, and a decades-long relationship with the family owning the property, this project can be completed within a year.
- *Produce an advantageous cost/benefit value*; CPA funding would leverage a MA LAND grant and BLT private fundraising will leverage a MA Conservation Partnership grant, so that local public funds would only need to cover a quarter of the total project cost.
- *Leverage additional public and/or private funds; applications that identify commitment from other funding sources will receive a higher priority*; see above, MA Conservation Land Tax Credit, MA Conservation Partnership Grant, and private funding.
- *Serves more than one CPA purpose*: property provides conservation, passive recreation, and historic preservation opportunities.

Open Space Criteria

- *Protecting land bordering on wetlands in order to assist in minimizing or eliminating eutrophication of habitat*; the parcel includes both pond front wetland and wetland buffer along 600 feet of shoreline on Middle Pond.
- *Permanently protect important wildlife habitat, including areas that are of local significance for biodiversity*. The locus parcel is thickly wooded upland on Prime Forest Soils, with pitch pine, white pine, white and black oak, several American holly and American beech, and an understory of black huckleberry, blueberry, wintergreen, field grasses and wild sarsaparilla. There are minimal invasive species. Eastern box turtles are known to enjoy this forest but have not yet been reported to the state. Deer, fox, raccoon, turkey, songbirds, and coyote all shelter and feed in the woods. One of the first 21st century bald eagle nests on Cape Cod is located at the head of Mystic Lake, about a half-mile west from the Wheeler parcel, owing to the rich fish/food resources of the three ponds.
 - The three “Indian Ponds” and their shoreline are considered Priority Habitat for Rare Species (PH 296 & 272), for the rare freshwater mussels that grow in

the bottoms and a rare vascular plant. The Wheeler property has almost 600 feet of shore on Middle Pond, the spawning ground for Barnstable's most prolific anadromous fish run (alewives and blueback herring) coming up the Marstons Mills River from Nantucket Sound. The two pond front acres of the 5.5-acre locus are included in BioMap Core Habitat, and the entire Wheeler property is considered Aquatic Core Buffer land in BioMap Critical Natural Landscape.

- *Contain a variety of habitats, with diversity of geologic features and types of vegetation;* the property includes both wetland and upland, with varied topography.
- *Preserve scenic, agricultural, historic, archeological or wooded character;* The property has an historic agricultural history dating back nearly 100 years. The property was purchased by Wilfrid Wheeler, Jr. (Boysie) in 1939, who treasured the many varieties of American Holly that were brought to Windrift (the family's name for the property) during the 1950s from the Falmouth farm and nursery of Boysie's father, Wilfrid Wheeler, Sr. (1876 -1961). A farmer and horticulturalist who was also the first MA Secretary of Agriculture, Wilfrid Wheeler, Sr. came to be known as the "Holly Man" for protecting and developing the American Holly on Cape Cod. Ashumet Holly and Wildlife Sanctuary managed by Mass Audubon preserves his work. In 1992, Boysie's son Richard Wheeler further advanced his grandfather's legacy by placing Windrift in chapter 61 to cultivate and sell Cape Cod American Holly. Holly harvests have been a family tradition at Windrift for 30 years.
- *Provide flood control/storage;* The project locus lies within the Town of Barnstable designated groundwater protection district. The property is also within the recharge area for Middle Pond.
- *Provide opportunities for passive recreation and environmental education;* the property lies between BLT's Fuller Farm conservation area, and the Town's Danforth recreation land. A 1-mile loop trail from Fuller Farm will connect to a new ½ mile trail through the Wheeler property, with access to the beach on Middle Pond. (See map with proposed trail).
- *Protect or enhance wildlife corridors, promote connectivity of habitat or prevent fragmentation of habitats;* the property lies between 22 acres of conservation land at Fuller Farm and the Town's 23-acre Danforth Recreation Area, which abuts the 1100-acre West Barnstable Conservation area, providing a critical connection corridor.
- *Provide public access;* provides access to walking trail from Fuller Farm (with parking) or Wheeler Road (no parking) and access to beach on Middle Pond.

Historic Preservation Criteria

- *Protecting, preserving, enhancing, restoring and/or rehabilitating historic, cultural, architectural or archaeological resources of significance, especially those that are threatened;* historic agricultural history dating back nearly 100 years. The property was purchased by Wilfrid Wheeler, Jr. (Boysie) in 1939 who treasured the many varieties of American Holly that were brought to Windrift (the property) during the 1950s from the Falmouth farm and nursery of Boysie's father, Wilfrid Wheeler, Sr. (1876 -1961). A farmer and horticulturalist who was also the first MA Secretary of Agriculture, Wilfrid

Wheeler, Sr. came to be known as the “Holly Man” for protecting and developing the American Holly on Cape Cod. Ashumet Holly and Wildlife Sanctuary managed by Mass Audubon preserves his work. In 1992, Boysie’s son Richard Wheeler further advanced his grandfather’s legacy by placing Windrift in chapter 61 to cultivate and sell Cape Cod American Holly. Holly harvests have been a family tradition at Windrift for 30 years.

- *Demonstrating a public benefit;* via a walking trail, the public will have access to the many labeled specimen holly trees that are dispersed around the property.
- *Demonstrating the ability to provide permanent protection for maintaining the historic resource.* The property will be restricted from development and Barnstable Land Trust will maintain the property in perpetuity, and the holly trees as long as climate change impacts permit.

Recreation Criteria

- Jointly benefit Conservation Commission and Recreation Commission initiatives by promoting passive recreation such as hiking, biking and crosscountry skiing on town-owned property; provides public access to a new trail to connect with the existing 1-mile loop around Fuller Farm.

6. Provide a detailed budget, including the following information, as applicable:

**Wheeler Holly Preserve
Budget**

	Bargain sale BLT purchase
Expenses	
150 Wheeler Road SFD	\$ 1,300,000
178 Wheeler Road	\$ 525,000
Project Costs	\$ 41,250
	\$ 1,866,250
Public Funding Sources	
TOB CPA	\$ 905,000*
CP Grant (applied July 17)	\$ 175,000
	\$ 1,080,000
Total remaining to raise by BLT	\$ 786,250

*Up to \$488,000 in reimbursement may be available from a MA LAND grant, applied for on July 13th.

7. Assessor's office identification map and map and parcel number:
see attached map 103 block 109 lot 102

A handwritten signature in black ink that reads "Janet Hill". The signature is written in a cursive style with a large initial 'J' and a long horizontal stroke at the end.

Signature of Applicant

07/13/23

Date

Property Address: Lots 3 and 4, 150 Wheeler Road, Barnstable, MA 02648

GRANTOR: Barnstable Land Trust, Inc.

PRIMARY GRANTEE: Town of Barnstable

SECONDARY GRANTEE: The Compact of Cape Cod Conservation Trusts, Inc.

ADDRESS OF PREMISES: (Lots 3 and 4), 150 Wheeler Road, Barnstable, Massachusetts

FOR GRANTOR’S TITLE SEE: Barnstable County
Registry of Deeds at Book _____, Page _____.

GRANT OF CONSERVATION RESTRICTION

I. STATEMENT OF GRANT

BARNSTABLE LAND TRUST, INC. (Federal ID #22-2483963), a Massachusetts charitable corporation with an office at 1540 Main Street, Barnstable, Barnstable County, Massachusetts 02668, being the sole owner of the Premises as defined herein, constituting all of the owner(s) of the Premises as defined herein, for my successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, to the **INHABITANTS OF THE TOWN OF BARNSTABLE**, a Massachusetts municipal corporation with principal offices at Town Hall, 367 Main Street, Hyannis, Barnstable County, Massachusetts 02601-3907, their permitted successors and assigns (“**Primary Grantee**”), for consideration paid of Nine Hundred and Five Thousand Dollars and 00/100 (\$905,000.00), and to **THE COMPACT OF CAPE COD CONSERVATION TRUSTS, INC.**, a Massachusetts charitable corporation with an office address at 36 Red Top Road, Brewster, MA 02631 and a mailing address of P.O. Box 443, Barnstable, MA 02630, its permitted successors and assigns (“**Secondary Grantee**”), for nominal consideration, **IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES**, the following Conservation Restriction on land located in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts containing the entirety of a 5.5-acre parcel of land (“Premises”), which Premises is more particularly described in Exhibit A and shown in the attached reduced copy of a survey plan in Exhibit B, both of which are incorporated herein and attached hereto. As used herein, the terms “Grantee” and “Grantees” shall refer to the Primary Grantee and the Secondary Grantee collectively.

The Primary Grantee acquired this Conservation Restriction utilizing, in part, Community Preservation Act funds pursuant to Chapter 44B § 1 et seq. as applied pursuant to Chapter 149, §298 of the Acts of 204, as amended by Chapter 352, §129-133 of the Acts of 2004 (the so called

“Barnstable County Community Preservation Act” or “CPA”), which funds were authorized for such purposes by a vote of the Barnstable Town Council at a duly called meeting held on _____, on Agenda Item _____. An attested copy of the Town Council Order is attached hereto as Exhibit C-1.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction (“Purposes”) are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition and available for passive outdoor recreational use, and to prevent any use or change that would materially impair the Conservation Values (as defined below).

LAND Grant. The fee interest in the Conservation Restriction was acquired utilizing, in part, assistance from the Local Acquisitions for Natural Diversity (LAND) program pursuant to Section 11 of Chapter 132A of the Massachusetts General Laws and Section 2A of Chapter 286 of the Acts of 2014, and therefore the Premises is subject to a LAND Grant Project Agreement (“Project Agreement”) recorded at the Barnstable Registry of Deeds in Book _____ Page _____.

The Conservation Values protected by this Conservation Restriction include the following:

- **Open Space.** The Premises contributes to the protection of the scenic and natural character of The Town of Barnstable and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved, including the 22+-acre Fuller Farm Conservation Area owned by the Barnstable Land Trust, and is in close proximity to the 23-acre William and Hilma Danforth Recreation Area.
- **Soils and Soil Health.** The Premises includes 5 acres± of Prime Farmland Soils, including 0.5 acres± of Farmland of Statewide Importance and 4.5 acres± of Prime Farmland. The Premises also includes 4 acres± of Prime Forest Land as identified by the USDA Natural Resources Conservation Service at MassGIS MassMapper. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- **Wildlife Habitat.** The Premises includes 0.4± acres designated by the MA Division of Fisheries and Wildlife acting by and through its Natural Heritage and Endangered Species Program (NHESP) as “Priority Habitats of Rare and Endangered Species”, including two mussel species of special concern and one vascular plant species of special concern, the protection of which aligns with NHESP’s wildlife and habitat protection objectives.
- **Public Access.** Public access to the Premises will be allowed for passive outdoor recreation, education, nature study. Protection of the Premises will create and permanently conserve a public walking trail that will add to the existing 1-mile trail loop on Fuller Farm.
- **Biodiversity.** The Premises includes areas designated as Core Habitat and Critical Natural Landscape, as defined by the Massachusetts Natural Heritage and Endangered Species Program, including 2± acres designated as Aquatic Core Habitat, 0.4± acres designated as Rare

Species Core Habitat, and 3.5± acres designated as Aquatic Core Buffer. BioMap, published in 2010, and updated in 2022 was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. *BioMap* is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan.

- Water Quality. Groundwater beneath the Premises and all of the surface water on the slopes of the Premises flow south to Middle Pond and impact the water quality of the pond. Middle Pond is a Great Pond with a Town beach at its southern end and is a spawning area for rare mussels and anadromous fish, so its quality is important for habitat and public health. This area of Barnstable will likely remain on septic systems for the rest of this century, owing to relatively less population density, so protecting the Premises from additional septic system inputs is important for the water quality of the pond.
- Wetlands. The pond shoreline wetlands on the Premises provide valuable habitat for a diverse array of wildlife species as well as provide the many other public benefits of wetlands protection recognized by the Commonwealth of Massachusetts (Section 40 of Chapter 131 of the Massachusetts General Laws).
- Climate Change Resiliency. The Premises is identified as an area of average Terrestrial Resilience according to The Nature Conservancy’s (TNC) Resilient Land Mapping Tool, including average Landscape Diversity. TNC’s Resilient Land Mapping Tool was developed in order to map ‘climate-resilient’ sites that are ‘more likely to sustain native plants, animals, and natural processes into the future.’ The protection of these climate resilient sites is an important step in both reducing human and ecosystem vulnerability to climate change and adapting to changing conditions.
- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan* (RPP), amended in 1996, 2002, 2009, 2012, and 2018, which provided, *inter alia* (references are to the 2018 RPP, amended in 2021 to accommodate climate change goals and objectives):
 - “To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers.” (Wetland Resources Goal, p. 55).
 - “To protect, preserve, or restore wildlife and plant habitat to maintain the region’s natural diversity” (Wildlife and Plant Habitat Goal, p. 55).
 - In reference to this Wildlife and Plant Habitat Goal, the RPP states, “For many years habitat loss due to development has been the primary threat to the region’s habitats” (p. 32); and
 - “To conserve, preserve, or enhance a network of open space that contributes to the region’s natural community resources and systems” (Open Space Goal, p. 55). In reference to this Open Space Goal, the RPP states, “[t]he open space of the Cape is critical to the health of the region’s natural systems, economy, and population. Open space provides habitat for the region’s diverse species and protection of the region’s drinking water supply” (p. 30).

Granting this Conservation Restriction will advance each of these goals outlined in the RPP. The Wetlands Goal will be addressed in protecting the quality of Middle Pond pondshore wetland resources and their upland buffer zone. Wildlife and Plant Habitat Goal will be served because the Premises contains a host of important plant and wildlife species and falls within an NHESP BioMap Core Habitat and Critical Natural Landscape area. The Open Space Goal will be advanced because the Premises abuts several acres of existing conservation land.

- Consistency with Clearly Delineated Town of Barnstable Conservation Policy. Protection of the Premises will further the Town of Barnstable’s documented goals regarding conservation land. The Town outlined its conservation goals in its *Open Space and Recreational Plan* (1984, amended 1987, 1998, 2005, 2010, 2018), identifying goals, policies, and actions to guide conservation efforts, among them the goal of preserving “quality open spaces throughout the Town which protect and enhance its visual heritage.” Additional objectives include (*references are to the 2018 Plan*):

1) "Preservation of open space for protection of drinking water resources, and for protection of other natural, historic and scenic resources is a community-wide priority; and 2) Protection of open space should continue to be an integral component of the Town's efforts." (p. 6)
To achieve this vision, the Plan sets several goals for the town including: 1) "To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities, and community character, and 2) “Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, [and] preserve historic, scenic and cultural resources...” (pp. 10-11).

Additionally, the Barnstable Town Council’s Strategic Plan for fiscal year 2015 identified the goal to preserve and protect significant natural and historic resources for visual quality, outdoor recreation, wildlife habitat, and cultural history.

Moreover, in 1981, the Town of Barnstable adopted a Conservation Restriction Program consisting of policies and guidelines, in particular an *Open Space Policy*, approved by the Board of Selectmen, Assessors, and Conservation Commission, which encourages the use of conservation restrictions in perpetuity to protect natural resources in accordance with the purposes of the *Open Space and Recreation Plan*, and which further specified that purposes of a conservation restriction could include the following:

- preserve scenic view;
- preserve open space;
- preserve important natural habitats of fish, wildlife or plants; and,
- limit or prevent construction on land of natural resource value.

The Town of Barnstable promotes the Cape Cod Pathways program intended to create a series of looped and through-routes in the town and beyond for public walking and scenic enjoyment. The Premises connects to existing public walking trails and has the potential for extending trail connections to public walking trail loops on the nearby West Barnstable Conservation Area, the single-largest (1100+ acres) town conservation area on Cape Cod, land owned by the Town of Barnstable.

- Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively “conservation values”) of great importance to the Grantees and the people of Barnstable and the Commonwealth of Massachusetts, including the advancement of the following goals of the State’s 2017 Statewide Comprehensive Outdoor Recreation Plan (SCORP):
 - 2.1) Support the acquisition of land and development of new open spaces that can provide a trail network;
 - 2.2) Fill in the gaps in existing trail networks; and,
 - 3.2) 1. Support the acquisition of land that will provide for water-based recreation.
- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: reserve the land for education regarding the natural world; protect wildlife habitats; and it would contribute to the preservation of open space because it is proximate to several other parcels already conserved.

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, wind turbine, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;

6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantees;
7. Non-Native Species. Introduction of species of animals or plants that are not native to Barnstable County, as defined by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, by Bruce A. Sorrie and Paul Somers, published by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program (1999) or as amended or contained in a similar professionally acceptable publication available in the future;
8. Hunting. Using the Premises for hunting;
9. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
10. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantees' intention to maintain the entire Premises under unified ownership;
11. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
12. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
13. Residential or Industrial Uses. Using the Premises for residential or industrial purposes;
14. Inconsistent Uses. Using the Premises for commercial purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A., the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease,

insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report (see Paragraph XV.);

2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that no stockpiling occur within 100 feet of Middle Pond and any wetlands;
4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantees, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
5. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantees. A copy of the results of any such investigation on the Premises is to be provided to the Grantees;
6. Trails. Maintaining and constructing trails as follows:
 - a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening trail corridors up to eight (8) feet in width overall, with a treadway up to five (5) feet in width.
 - b. New Trails. With prior written approval of the Grantees, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the width limitations above.
 - c. Trail Features. With prior written approval of the Grantees, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
7. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantees interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
8. Motorized Vehicles. The use of motorized vehicles is allowed within the designated driveway for the purposes of the deeded easement access to Lot 2. Using motorized vehicles by persons with mobility impairments and as otherwise permitted herein.

9. Outdoor Passive Recreational and Educational Activities. Fishing, , swimming, hiking, horseback riding, cross-country skiing, snowshoeing, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities, including access by canoe and other non-motorized boats, but no launching of motorized or non-motorized boats;
10. Other. Such other non-prohibited activities or uses of the Premises may be permitted with the prior approval of the Grantees provided that the Grantees have made a finding, such finding to be documented in writing and kept on file at the offices of the Grantees, that such activities are consistent with the Permitted Acts and Uses, do not impair the conservation values and purposes of this Conservation Restriction, and, where feasible, result in a net gain in conservation value of the Premises.

C. Special Use Area.

The Grantor reserves the right to conduct or permit the following activities and uses only within the area shown on the Plan as “Barn and Driveway Area” in addition to the Permitted Acts and Uses described in Paragraph III.B., and otherwise subject to this Conservation Restriction:

1. **Barn Structure.** Using, maintaining, repairing, removing, and/or replacing the existing barn structure, as documented in the Baseline Report, with the same footprint at grade of 500 square feet and a maximum height of any part of the dwelling of ____ feet, provided that there shall be no more than one (1) structure at any one time within the Special Use Area, and the structure shall not include habitable space. Use of the barn structure will support the purposes of this conservation restriction, for example, storage of equipment, educational displays;
2. Constructing, using, maintaining, repairing, improving, or replacing, the existing driveway, and parking area, (“Improvements”) but not to locate such Improvements outside of the Barn and Driveway Area unless a qualified professional certifies in writing that there is no feasible location for any such improvement within the Special Use Area, such a finding not to consider financial feasibility, and the Grantees approve of any such Improvements to be located outside of the Special Use Area, and further provided that any of these Improvements serves only the permitted barn structure or deeded access easement located within the Special Use Area.

D. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

E. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B. shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring

a permit, license or other approval from a public agency does not imply that the Grantees or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

F. Notice and Approval

1. Notifying Grantees. Whenever notice to or approval by Grantees is required, Grantor shall notify or request approval from Grantees, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. Where Grantee's approval is required, the Secondary Grantee, within thirty (30) days of receipt of Grantor's request, shall notify the Primary Grantee of the Secondary Grantee's decision. Within sixty (60) days of the Primary Grantee's receipt of Grantor's request, the Primary Grantee shall either affirm, amend or reverse the decision of the Secondary Grantee, shall notify the Secondary Grantee thereof in writing, and shall issue its decision to the Grantor in writing. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no decision is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall proceed to issue its decision within sixty (60) days of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.
3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

IV. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantees, and their duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantees will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantees for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantees determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantees shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantees may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantees determine that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantees may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantees all reasonable costs and expenses (including counsel fees) incurred by the Grantees in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.
4. Coordination between Primary and Secondary Grantee. Whenever there is a question of whether there is a violation of this Conservation Restriction, or how to proceed in addressing the violation, the Primary Grantee shall consult with the Secondary Grantee. The Primary Grantee shall then determine whether there is a violation and how to proceed in addressing the violation. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no response is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall notify Grantor and proceed as provided in Paragraph IV.B.2.

C. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantees. Any election by the Grantees as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantees do not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantees or their agents.

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantees to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantees will cooperate in the restoration of the Premises, if desirable and feasible.

V. PUBLIC ACCESS

Subject to the provisions of this Conservation Restriction, the Grantor hereby grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph III.B.9 provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the Purposes and Conservation Values. Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph III.B.9. The Grantees may require the Grantor to post the Premises against any use by the public that results in material impairment of the Conservation Values. This grant of public access to the Premises is solely for the purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantees hereto express their intent to benefit from exculpation from liability to the extent provided in such section.

VI. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official ("Secretary"), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor's and Grantee's Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantees, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C., subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantees shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantees' Receipt of Property Right

Grantor and Grantees agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted Premises. The proportionate value of the Primary Grantee's property right as of the Effective Date (See Paragraph XII.) was determined to be ___ %. Such proportionate value of the Primary Grantee's property right shall remain constant.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantees shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantees in accordance with Paragraph VI.B. and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantees shall use their share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

VII. DURATION and ASSIGNABILITY

A. Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments

The Grantees are authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantees its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantees, shall be in gross and shall not be assignable by the Grantees, except when all of the following conditions are met:

1. the Grantees require that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantees not less than twenty (20) days prior to the effective date of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantees may record, in the applicable registry of deeds, or registered in the applicable land court registry district, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantees shall, within sixty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantees agree that it will not take title, to any part of the Premises without having first assigned this Conservation

Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

A. Limitations on Amendment

Grantor and Grantees may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantees as "qualified organizations" or "eligible donees" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantees, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VI (Termination/Release/Extinguishment); or
7. cause the provisions of this Paragraph XI to be less restrictive; or
8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantees and Grantor, approved by the Town of Barnstable and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantees have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XIII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Barnstable Land Trust
1540 Main Street
West Barnstable, MA 02668

To Primary Grantee: Town of Barnstable, c/o Town Manager
367 Main Street
Hyannis, MA 02601-3907

To Secondary Grantee: The Compact of Cape Cod Conservation Trusts, Inc.
P.O. Box 443
Barnstable MA 02630

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Grantor and Grantees with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared

areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report (“Baseline Report”) titled “Baseline Report for Wheeler Holly Preserve Conservation Restriction”, dated _____ prepared by the Secondary Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantees and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantees to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVI. MISCELLANEOUS

A. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Release of Homestead

The Grantor hereby agrees to waive, subordinate, and release any and all Homestead rights pursuant to Chapter 188 of the Massachusetts General Laws it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. No Surety Interest

The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

D. Executory Limitation

If either Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then that Grantee’s rights and obligations under this Conservation Restriction shall run to the other Grantee. If both Grantees shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General

Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then their rights and obligations under this Conservation Restriction shall run to the Town of Barnstable Conservation Commission. If the Town of Barnstable Conservation Commission is no longer in existence at the time the rights and obligations under this Conservation Restriction would otherwise vest in it, or if the Town of Barnstable Conservation Commission is not qualified or authorized to hold conservation restrictions as provided for assignments pursuant to Paragraph VII, or if it shall refuse such rights and obligations, then the rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

E. Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

F. The following signature pages are included in this Grant:

Grantor – Barnstable Land Trust, Inc.

Primary Grantee Acceptance – Town of Barnstable Town Manager

Secondary Grantee Acceptance – The Compact of Cape Cod Conservation Trusts, Inc.

Approval – Town of Barnstable Town Council

Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

G. The following exhibits are attached and incorporated herein:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Recorded Plan of Premises

Exhibit C: Town Council Order

Wheeler Holly Preserve Conservation Restriction, Barnstable MA

WITNESS my hand and seal this ____ day of _____, 2024 as authorized by vote of the Barnstable Land Trust, Inc., at a meeting duly held on _____, 2024, authorizing grant of the foregoing Conservation Restriction to the Town of Barnstable and The Compact of Cape Cod Conservation Trusts, Inc.

Barnstable Land Trust, Inc.

Leigh Townes, President,
Barnstable Land Trust, Inc.

Jill McCleary, Treasurer
Barnstable Land Trust, Inc.

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. _____ 2024

Then personally appeared the above-named Leigh Townes, President, Barnstable Land Trust, Inc. and Jill McCleary, Treasurer, Barnstable Land Trust, Inc., the corporation named in the foregoing instrument, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the persons whose names are signed on the document, and each acknowledged she is duly authorized to act on behalf of said corporation, and each further acknowledged the foregoing instrument to be the free act and deed of said corporation, before me.

Mark H. Robinson, Notary Public
My commission expires: 8 July 2027

ACCEPTANCE AND APPROVAL OF TOWN MANAGER

I, Mark S. Ells, as Town Manager of the Town of Barnstable, Massachusetts, authorized by a vote of the Barnstable Town Council at a duly called meeting held on _____ on Agenda Item _____, a copy of the Town Council Order being attached hereto as Exhibit C.2, hereby approve and accept the foregoing Conservation Restriction from the Barnstable Land Trust, Inc. to the Town of Barnstable pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF BARNSTABLE
TOWN MANAGER:

Mark S. Ells

Barnstable, ss

On the _____ day of _____, 2024, before me, the undersigned notary public, personally appeared Mark S. Ells, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the Town Manager of the Town of Barnstable; that he is duly authorized to act on behalf the Town of Barnstable and he acknowledged the foregoing instrument to be his free act and deed.

Notary Public
My Commission Expires

ACCEPTANCE OF GRANT

The foregoing Conservation Restriction from Barnstable Land Trust, Inc. was accepted by The Compact of Cape Cod Conservation Trusts, Inc. this _____ day of _____, 2024.

By: _____
Leonard W. Johnson

Its: President, duly authorized

By: _____
Henry Lind

Its: Treasurer, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2024, before me, the undersigned notary public, personally appeared Leonard W. Johnson, President of The Compact of Cape Cod Conservation Trusts, Inc., and Henry Lind, Treasurer of The Compact of Cape Cod Conservation Trusts, Inc., and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Mark H. Robinson Notary Public
My Commission Expires: 8 July 2027

**APPROVAL OF THE TOWN OF BARNSTABLE
TOWN COUNCIL**

At a public meeting duly held on _____2024, the Town Council of the Town of Barnstable, Massachusetts, voted to approve the foregoing Conservation Restriction from the Barnstable Land Trust, Inc., to the Town of Barnstable and The Compact of Cape Cod Conservation Trusts, Inc.in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN COUNCIL

PRESIDENT:_____

Matthew Levesque

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On the _____ day of _____, 2024, before me, the undersigned notary public, personally appeared **Matthew Levesque**, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was _____, and who being by me duly sworn did say that he is the President of the Town Council of the Town of Barnstable; that he is duly authorized to act on behalf the Town Council; and he acknowledged the foregoing instrument to be the free act and deed of Town of Barnstable Town Council.

Notary Public
My Commission Expires:

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

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from Barnstable Land Trust, Inc. to The Town of Barnstable and The Compact of Cape Cod Conservation Trusts, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2024

Rebecca L Tepper
Secretary of Energy and Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, 2024, before me, the undersigned notary public, personally appeared Rebecca L Tepper, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Legal Description of Premises

The Premises subject to this Conservation Restriction is all of a vacant tract of land located in the Village of Marstons Mills, in the Town of Barnstable, Barnstable County, Commonwealth of Massachusetts, more particularly bounded and described as follows:

The land in Barnstable in Barnstable County, Massachusetts shown as _____ on a plan entitled _____, dated _____, by _____ and recorded at the Barnstable County Registry of Deeds at Plan Book _____, Page _____.

Containing 5.5 acres, more or less, per survey.

For Grantor's Title see Barnstable County Registry of Deeds at Book _____, Page _____.

Town of Barnstable Assessor Map 103, Parcel 109, (portion)

Street Address: 150 Wheeler Road, Barnstable, MA 02648

EXHIBIT B

Reduced Copy of Plan of Premises

For official full size plan see Barnstable Registry of Deeds Plan Book _____ Page _____

EXHIBIT C

Town Council Order

DECLARATION OF TRUST OF WHEELER REALTY TRUST
DATED MARCH 26, 1953

* * * * *

WHEREAS, Wilfrid Wheeler, Jr. of Belmont, Massachusetts, proposes to acquire certain real estate as hereinafter set forth, and other real estate or personal property from time to time hereafter, and has set aside the sum of One Hundred (100) Dollars to be held by himself as trustee as hereinafter set forth,

NOW, THEREFORE, the said Wilfrid Wheeler, Jr. does hereby declare that he will hold said One Hundred (100) Dollars and any real or personal property conveyed to him as trustee hereunder, together with the proceeds thereof and the income therefrom, upon the following trusts:

FIRST. The said Wilfrid Wheeler, Jr. as trustee hereunder and any other trustees appointed hereunder, who shall be known as Trustees of the Wheeler Realty Trust, are authorized to acquire by purchase or otherwise personal property, tangible or intangible, and real estate in the Commonwealth of Massachusetts, and to issue certificates of beneficial interest in this trust for cash or otherwise or in payment for such property and upon such basis as said trustees deem proper at the time of such issue.

SECOND. Said Wilfrid Wheeler, Jr. proposes to transfer to himself as trustee hereunder all the real estate and personal property now held by him as trustee under a certain declaration of trust

dated February 13, 1939, recorded with Barnstable County Registry of Deeds, Book 553, Page 499, and said property so transferred is to be held under the terms of this trust, and certificates of beneficial interest may be issued by said Wilfrid Wheeler, Jr., or such property may be held without issuing any such shares of beneficial interest as to him may seem best.

THIRD. The Trustees hereunder shall have as such as complete control over and disposal of all real estate and personal property held by them at any time under this trust as if they were the sole beneficial owners thereof and, without in any way limiting the generality of the foregoing, including the power to sell for cash or credit at public or private sale, to mortgage with or without power of sale, to lease for a term beyond the

See Appointment in Deed 1188, Page 241
1334-159
" " Appointment " 1456 " 1026
" " " 1529 " 96
" " Amendment " 1534 " 222

See Book 2285 page 114
See Book 3261 page 217

possible termination of this trust or for any less term, to let, to exchange, to release, to partition, and to improve, including the power to build upon or otherwise develop the whole or any part of any real estate held hereunder; and in connection therewith to lay out streets or parks, and to dedicate any portion thereof to the public, or to reserve any portion thereof, to provide drainage, sewerage and water works, and to donate land or money, or to expend any part of the funds of the trust for the purpose of furthering the development of the property, together with all necessary or incidental powers and authority.

-2-

The trustees hereunder shall have the power to borrow money from time to time in such amounts as they may deem desirable, and to issue notes therefor as trustees hereunder, with or without security as they may deem desirable.

The holder of any such note, whether secured or otherwise, may have recourse to the trust funds for payment thereof, but neither the trustees nor any beneficiary hereunder shall be personally liable for any money, principal or interest, so borrowed. No lender of money to the trustees shall be bound to inquire as to the indebtedness of the trustees, nor shall any such lender or any purchaser of any property of the trust be liable for the application of money loaned or of the purchase money paid.

The trustees shall have no power to bind the beneficiaries personally. In every written contract they may make reference shall be made to this Declaration of Trust. Any person or corporation contracting with the trustees shall look to the funds and property of the trust for the performance of any obligation thereunder, and neither the trustees nor the beneficiaries, present or future, shall be personally liable therefor. No assessment shall ever be made upon the beneficiaries or upon the shares of beneficial interest issued hereunder.

-3-

862

551

FOURTH. The Trustees may issue certificates of beneficial interest in the trust in such form as they shall deem best which shall represent the interest of the owner thereof which shall have a nominal par value of one dollar each and shall show the number of such shares to which a holder is entitled.

FIFTH: Certificates of beneficial interest shall not be transferable, except that the certificates issued to Wilfrid Wheeler, Jr. as the original issue and any certificates issued to him during the calendar year 1953 may be transferred by him upon such terms as he sees fit to and among his issue, his wife, and any of his brothers and sisters or their issue, but the holder thereof, other than said Wilfrid Wheeler, Jr. as aforesaid, shall have the right to surrender his certificate and cause it to be redeemed and to receive from the trustees the liquidation value of the interest represented by such certificate as hereinafter provided, or for transfer upon the unanimous consent of all the trustees and other beneficial interests in existence and of full age at the time of such transfer.

The Trustees shall be the sole judge of the times at which payment of such liquidation value shall be made. Their decision shall be guided by what they believe to be the best interests of the trust, including its need for working capital. Their decision made in good faith shall be final and binding upon all parties in interest. Liquidation value shall be

-4-

determined by agreement between the trustees and the holder of the certificate of interest to be redeemed. In case of failure to agree within thirty days, arbitration may be had in the usual manner. If payment has not been made within six months after request for redemption or within three months after arbitration has been requested by either party, four per cent interest shall accrue upon such liquidation value of the unpaid balance thereof from the expiration of said six months' period or three months' period, whichever is earlier.

The holders of two-thirds in number of the certificates of interest hereunder may by assent in writing authorize the cancellation of one or more certificates of interest and the issue

of new certificates to any of the then beneficiaries.

SIXTH. The trustees hereunder shall divide the net income of the trust property among the beneficiaries from time to time in their sole discretion. The net proceeds of any sales of trust property may be distributed or held as to the trustees seems best. Any money awaiting distribution may be invested and re-invested in income yielding securities of any kind, including bonds, notes, stocks, shares of investment trusts, or of voluntary associations, in the discretion of the trustees.

SEVENTH. The death of any beneficiary while the trusts hereby created continue in force shall not operate to affect or determine the same in any particular, nor shall it entitle the

-5-

legal representatives of any such deceased beneficiary to an account or to any rights against the trustees or the trust estate. Said representatives shall succeed to the rights of the deceased beneficiary, but said representatives shall within six months after the death of the beneficiary offer to surrender the certificate for liquidation, and if the trustees do not accept such offer the certificate may be transferred to the issue of a beneficiary or to the issue of Wilfrid Wheeler, Jr.

EIGHTH. The trustees may from time to time appoint or remove such officers, agents and counsel as they think best, fix their compensation and define their duties. The trustees shall receive a reasonable compensation for their services.

NINTH. The trustees may execute and deliver any and all deeds, leases and other instruments necessary or advisable to carry out any action taken under the powers and authorities herein given, and all such deeds, leases and agreements shall be valid and effectual, both in law and in equity, in favor of all persons rightfully claiming under them.

TENTH. Any trustee hereunder may resign his trust by written instrument signed by him and acknowledged in the manner prescribed for the acknowledgment of deeds, and such instrument shall be recorded in the Registry of Deeds for the County of Barnstable. The normal number of trustees shall be three, but until appointment is made by the original trustee, Wilfrid Wheeler

Jr., of trustees to serve with him as co-trustees, said Wilfrid Wheeler, Jr. shall be the sole trustee. After the appointment of one or more co-trustees, the number of trustees may be

-6-

increased at any time by unanimous decision of the then trustees. Any vacancy occurring from any cause at any time in the office of trustee hereunder shall be filled by a majority of the beneficiaries of record at the time by an instrument in writing acknowledged by any one of them and recorded in said Registry, after the number has once been established at three by the appointment by said Wilfrid Wheeler, Jr. or after said Wilfrid Wheeler, Jr. shall have deceased prior to the appointment of two co-trustees to serve with him. Any new trustee or trustees shall have the same powers in regard to, and the same estate in, the property then held in trust as if originally named herein. If any trustee is absent from the Commonwealth, or incapable by reason of disease or otherwise, the other trustees shall have all the powers hereunder, and any trustee may by power of attorney delegate his powers for a period not exceeding three months at any one time to the other trustees hereunder. After three trustees have been appointed the majority of the then trustees shall be sufficient for any action, provided that said Wilfrid Wheeler, Jr. is one of the majority. No trustee hereunder shall be required to give bond. The term "trustees" shall at all times be held to mean trustee or trustees for the time being, singular or plural as may be proper to describe the trustees for the time being or as may be necessary or reasonably intended by the terms hereof.

-7-

862
555

ELEVENTH. The trustees hereunder shall be responsible only for a wilful breach of trust, and each shall be responsible only for his own acts. Any certificate signed by a majority of the trustees for the time being, recorded in said Registry of Deeds for said County of Barnstable, shall be conclusive as to all the facts stated therein.

TWELFTH. This declaration of trust may be altered or amended by an instrument signed by all of the trustees and recorded in said Registry of Deeds for the County of Barnstable.

THIRTEENTH. This trust shall continue for ten years from the date hereof unless sooner terminated by agreement of all the trustees and the holders of all shares of beneficial interest issued hereunder. The trustees may at any time within sixty days prior to the termination hereof by the above limitation, upon request of the holders of a majority of the shares represented by the outstanding certificates of beneficial interest, or by election of said Wilfrid Wheeler, Jr. if then alive, extend the time during which this trust shall continue for a further period of not to exceed ten years, or transfer the assets then in the hands of the trustees hereunder to trustees under a different declaration of trust. At the expiration of this trust by limitation as above set forth, if no such transfer is authorized, the trustees shall sell all the property then held by them as such trustees and divide the proceeds among the holders of certificates of

beneficial interest in proportion to the number of shares represented thereby, or may with the assent of the holders of a majority of such shares distribute the property so held in kind to said holders in proportion to the number of shares held without making sale thereof.

IN WITNESS WHEREOF said Wilfrid Wheeler, Jr. has hereto set his hand and seal the twenty-sixth day of March, 1953.

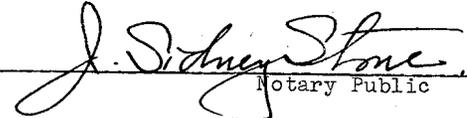
Wilfrid Wheeler Jr

862
556

COMMONWEALTH OF MASSACHUSETTS

Suffolk SS December 11, 1953

Then personally appeared the above-named Wilfrid Wheeler, Jr. and acknowledged the foregoing instrument to be his free act and deed, before me


Notary Public

My commission expires:

Barnstable, ss., Received December 30, 1953, and is recorded.

SEPTEN
271

Wilfrid Wheeler, Jr., as he is Trustee under Declaration of Trust dated February 13, 1939, recorded with Barnstable County Registry of Deeds, Book 553, Page 499, by the power conferred by said Declaration of Trust and every other power him thereto enabling, for consideration paid, grants to Wilfrid Wheeler, Jr., as he is Trustee under a certain Declaration of Trust dated March 26, 1953, to be recorded herewith, certain parcels of land situated in Barnstable County, Commonwealth of Massachusetts, and more fully described as follows:

1. A parcel of land located on the West side of Johns Pond in Mashpee, and described as follows:

Northeasterly, Easterly and Southeasterly by said Pond;

Northeasterly by land now or formerly of Faxon and land now or formerly of Raymond Emerson, Edward Cunningham and Henry L. Cross, Trustees of Forbes Real Estate Trust under Declaration of Trust dated March 1, 1928 and recorded with Barnstable County Deeds, Book 455, Page 549, by the Southwest boundary of said Faxon land extended to Hoopole Road;

Northwesterly by said Road;
Westerly by the Town Line between Mashpee and Falmouth;

Southwesterly by the highway known as Route 151.

2. A parcel of land located on Ashumet Pond in said Mashpee and bounded and described as follows;

Northwesterly by said Pond Nine Hundred Thirty-four (934) feet more or less by land now or formerly of the heirs of Mehitable Nash;

Southeasterly by Hoopole Road;

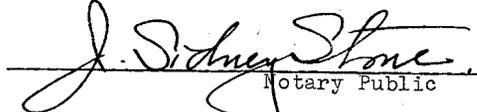
Westerly by the Town Line between Mashpee and Falmouth, and

862
556

COMMONWEALTH OF MASSACHUSETTS

Suffolk SS December 11, 1953

Then personally appeared the above-named Wilfrid Wheeler, Jr. and acknowledged the foregoing instrument to be his free act and deed, before me


Notary Public
My commission expires:

Barnstable, ss., Received December 30, 1953, and is recorded.

SEPTEN
271

Wilfrid Wheeler, Jr., as he is Trustee under Declaration of Trust dated February 13, 1939, recorded with Barnstable County Registry of Deeds, Book 553, Page 499, by the power conferred by said Declaration of Trust and every other power him thereto enabling, for consideration paid, grants to Wilfrid Wheeler, Jr., as he is Trustee under a certain Declaration of Trust dated March 26, 1953, to be recorded herewith, certain parcels of land situated in Barnstable County, Commonwealth of Massachusetts, and more fully described as follows:

1. A parcel of land located on the West side of Johns Pond in Mashpee, and described as follows:

Northeasterly, Easterly and Southeasterly by said Pond;

Northeasterly by land now or formerly of Faxon and land now or formerly of Raymond Emerson, Edward Cunningham and Henry L. Cross, Trustees of Forbes Real Estate Trust under Declaration of Trust dated March 1, 1928 and recorded with Barnstable County Deeds, Book 455, Page 549, by the Southwest boundary of said Faxon land extended to Hooppole Road;

Northwesterly by said Road;
Westerly by the Town Line between Mashpee and Falmouth;

Southwesterly by the highway known as Route 151.

2. A parcel of land located on Ashumet Pond in said Mashpee and bounded and described as follows:

Northwesterly by said Pond Nine Hundred Thirty-four (934) feet more or less by land now or formerly of the heirs of Mehitable Nash;

Southeasterly by Hooppole Road;

Westerly by the Town Line between Mashpee and Falmouth, and

Northwesterly Six Hundred Thirty-one (631) feet
more or less by land now or formerly of G. S.
Nichols.

862

557

Together with and subject to the rights and reservations contained in deed of said Raymond Emerson, Edward Cunningham and Henry L. Cross, Trustees of Forbes Real Estate Trust, dated March 6, 1946 and recorded with said Barnstable Deeds, Book 642, Page 158, so far as now in force and applicable. Hereby conveying to the grantee the real estate conveyed to the grantor by said deed, except such portions thereof as have heretofore been conveyed to others by deeds duly recorded in said Barnstable Deeds or heretofore taken for highway purposes by duly recorded takings of the proper authorities.

3. A certain parcel adjacent to Parcel No. 1 and described in deed of Harriet W. Cahoon, dated September 4, 1946 and recorded in said Deeds, Book 656, Page 367, and deed of Town of Mashpee dated June 22, 1946 and recorded in said Book, at Page 365. Excepting from the foregoing parcel so much thereof as was conveyed by the grantor to Josephine M. Lilly by deed dated December 11, 1953, duly recorded in said Deeds.

4. The interest of the grantor in the mortgage deed and note secured thereby of said Josephine M. Lilly conveying the last mentioned parcel to the grantor with mortgage covenants as set forth therein, said mortgage having been duly recorded in said Deeds.

5. A certain parcel of land in the Northerly part of said Mashpee, and bounded and described as follows:

Northwesterly by land now or formerly of Bathshebe Hicks;

Northerly by the Back Road;

Easterly by land set to Jeremiah Mye, again Northerly by land last named, and land formerly of Sally Mingo;

Easterly by land set to Martha Squib;

Southerly by land known as Cognehans Field (the sixth parcel conveyed herein) and

Westerly by Ashumet Pond.

Containing 32.5 acres more or less.

6. All the right, title and interest of the grantor in a parcel of land called Cognehans Field as above mentioned, and bounded and described as follows:

Easterly by Johns Pond;

Southerly by land formerly of Simeon Low;

West by Ashumet Pond and

Northerly by parcel numbered 5 conveyed herein and land formerly of William Mye.

Said parcels numbered 5 and 6 being the same premises conveyed to the grantor by deed of Coonamessett Ranch Co., dated April 28, 1947, and recorded in said Deeds, Book 669, Page 582, and deed of Adeline P. Cooper dated August 8, 1949, and recorded in said Deeds, Book 726, Page 513.

7. Certain land located on or near Middle Cotuit Pond

in Barnstable and more fully described in deeds of Marion Sawyer dated February 3, 1939 and recorded in said Deeds, Book 553, Page 501, and two deeds dated April 9, 1953 and recorded with said Barnstable Deeds, and also deed of Helen M. MacLellan dated November 27, 1940 and recorded with said Deeds, Book 573, Page 346.

There are excepted from the foregoing conveyances any duly recorded conveyances by the grantor since February 13, 1939, municipal liens if any now outstanding and duly recorded takings by municipalities if any.

List of conveyances by the grantor not expressly heretofore mentioned:

To James W. Hindley et ux	December 1946
" Walter B. Lounsbury et ux	February 1947
" Thomas E. Larkin et ux	July 1947
" Phyllis Ann Schreiner	October 1948
" Russell I. Sturtevant et ux	May 1949
" Russell I. Sturtevant et ux	1950
" Robert Miller Dominy et ux	August 1951
" George E. Cooke et ux	August 1951
" Russell A. Allen et ux	July 17, 1953

There is expressly hereby conveyed any interest in real estate in said Towns of Mashpee and Barnstable conveyed to the

grantor by any duly recorded deeds in addition to those listed herein, in so far as such interest has not heretofore been conveyed to others by the grantor by conveyances heretofore duly recorded in said Deeds.

There is hereby conveyed also any interest of the grantor in any mortgages given by any grantee to the grantor and now outstanding of record, together with the notes secured thereby and any unsettled obligations thereunder or connected therewith.

For authority of the grantor in addition to said original deed of trust see amendment thereof dated March 26, 1953 and duly recorded in said Deeds.

WITNESS my hand and seal this 28th day of December, 1953.

Wilfrid Wheeler Jr.
Trustee under Declaration of Trust
dated February 13, 1939, as aforesaid.

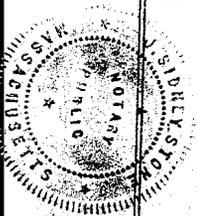
THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

December 28, 1953

Then personally appeared Wilfrid Wheeler, Jr., Trustee under Declaration of Trust dated February 13, 1939, as aforesaid and acknowledged the foregoing instrument to be his free act and deed, before me

J. [Signature]
Notary Public.



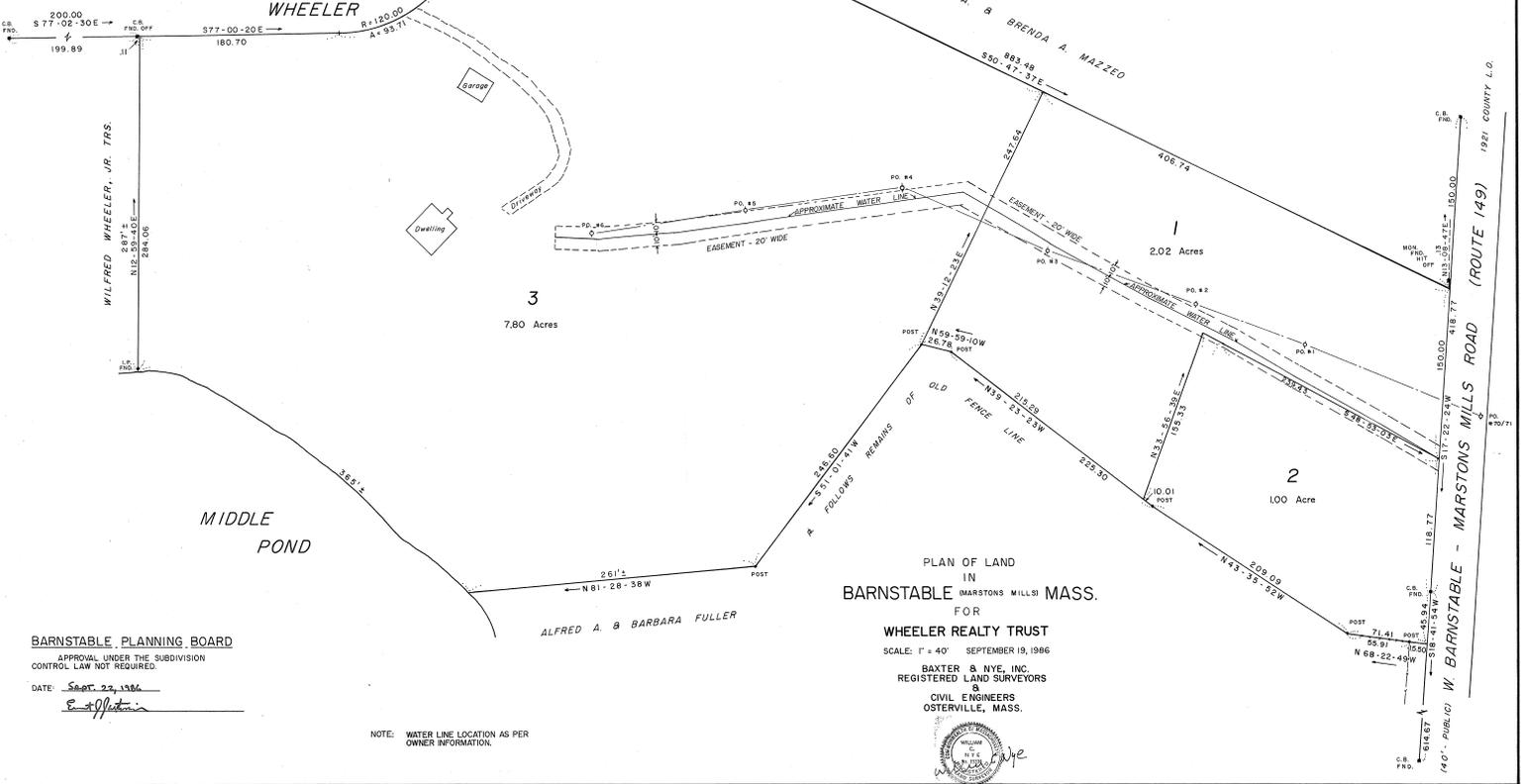
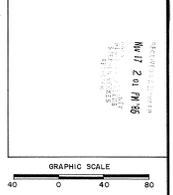
September 27, 1957

Barnstable, ss., Received December 30, 1953, and is recorded.



LOCUS MAP
SCALE: 1" = 2,000'
ZONE: RF
ASSESSOR'S MAP: 103 PCL 109-2

I CERTIFY THAT THIS PLAN
HAS BEEN PREPARED IN
CONFORMITY WITH THE RULES
AND REGULATIONS OF THE
REGISTERERS OF DEEDS.
William C. Dye



425-80

BARNSTABLE PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED.

DATE: Sept. 23, 1986
[Signature]

NOTE: WATER LINE LOCATION AS PER
OWNER INFORMATION.

PLAN OF LAND
IN
BARNSTABLE (MARSTONS MILLS) MASS.

FOR
WHEELER REALTY TRUST
SCALE: 1" = 40' SEPTEMBER 19, 1986

BAXTER & NYE, INC.
REGISTERED LAND SURVEYORS
&
CIVIL ENGINEERS
OSTERVILLE, MASS.





Town of Barnstable Conservation Commission

200 Main Street, Hyannis, MA 02601

E-mail: conservation@town.barnstable.ma.us

Office: 508-862-4093

Fax: 508-778-2412

July 12, 2023

Mr. Matthew P. Levesque
Town Council President
Town of Barnstable
367 Main Street
Hyannis, MA 02601

RE: Wheeler Holly Preserve Conservation Project, 150 Wheeler Road, Marstons Mills
Community Preservation Act and LAND Grant Application
Map 103 Parcel 109/002

Dear Council President Levesque:

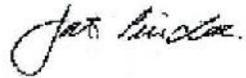
On July 11, 2023, the Conservation Commission voted unanimously, authorizing me to prepare and submit this letter of support for the Barnstable Land Trust (BLT) application to the Community Preservation Committee (CPC) and the Mass. Division of Conservation Services, Local Acquisitions for Natural Diversity (LAND) Grant program, for the purchase of a Conservation Restriction on 5.5 acres of important conservation land at 150 Wheeler Road, Marstons Mills, as part of a large 9.5 acre acquisition from the Wheeler Family.

This key piece of land on Middle Pond would expand on the existing 22+ acre Fuller Farm Conservation Area owned by BLT and the extensive William and Hilma Danforth Recreation Area owned by the Town of Barnstable. The parcel includes important conservation habitat including Natural Heritage and Endangered Species Program (NHESP) Priority Habitat of Rare Species and BioMap Rare Species Habitat, Aquatic Core Habitat, and Critical Natural Landscape Aquatic Core Buffer. The property is strategically located among major public trails of the Town and BLT, with a possible future connection.

This land acquisition and conservation restriction would satisfy many Town planning and CPC goals related to scenic and natural resource protection and passive recreation. Leveraging a Mass. LAND grant will create an advantageous cost-benefit value for the Town and BLT. It is proposed that the Town of Barnstable and The Compact of Cape Cod Conservation Trusts, Inc. co-hold the required Conservation Restriction on the acquired land to reduce the monitoring burden on the Town.

Please let me know if you have further questions.

Sincerely,

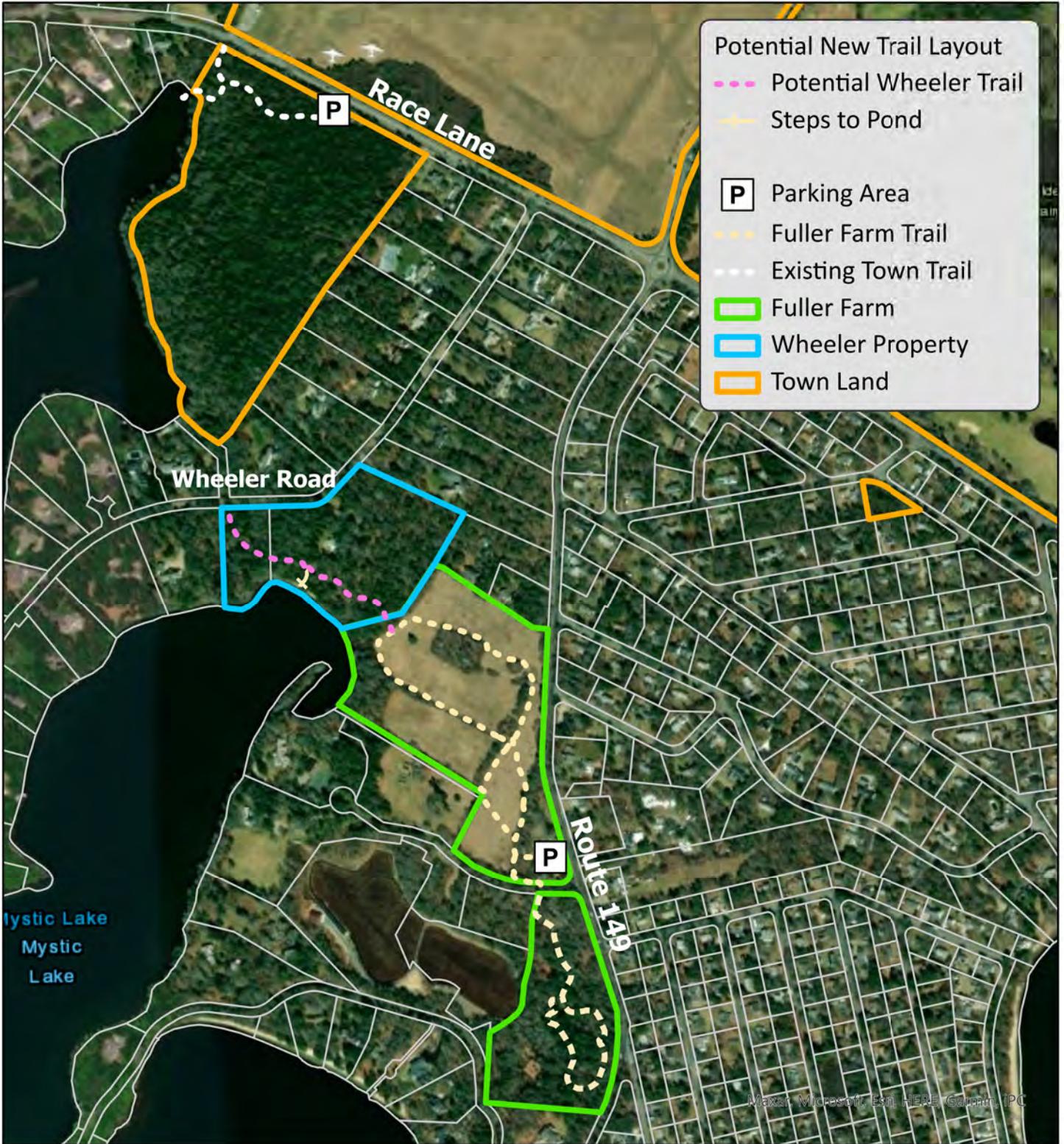
A handwritten signature in black ink, appearing to read "Fat Piu (Tom) Lee". The signature is written in a cursive, flowing style.

Fat Piu (Tom) Lee, P.E., Chair
Conservation Commission

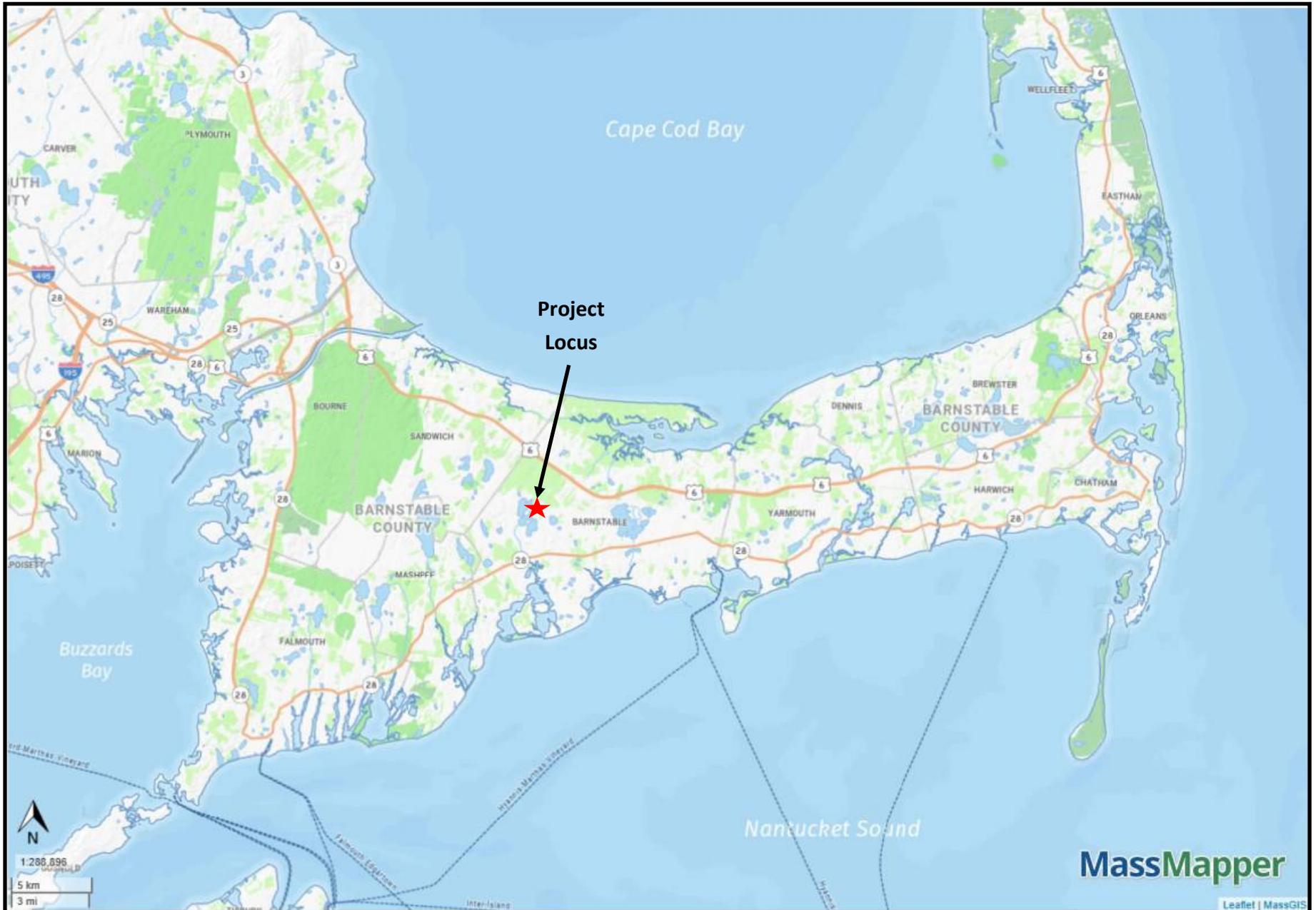
CC: Paula K. Schnepf, Town Council Liaison
Mark S. Ells, Town Manager
Lindsey Counsell, Community Preservation Committee Chair

Wheeler - Potential Trail Layout

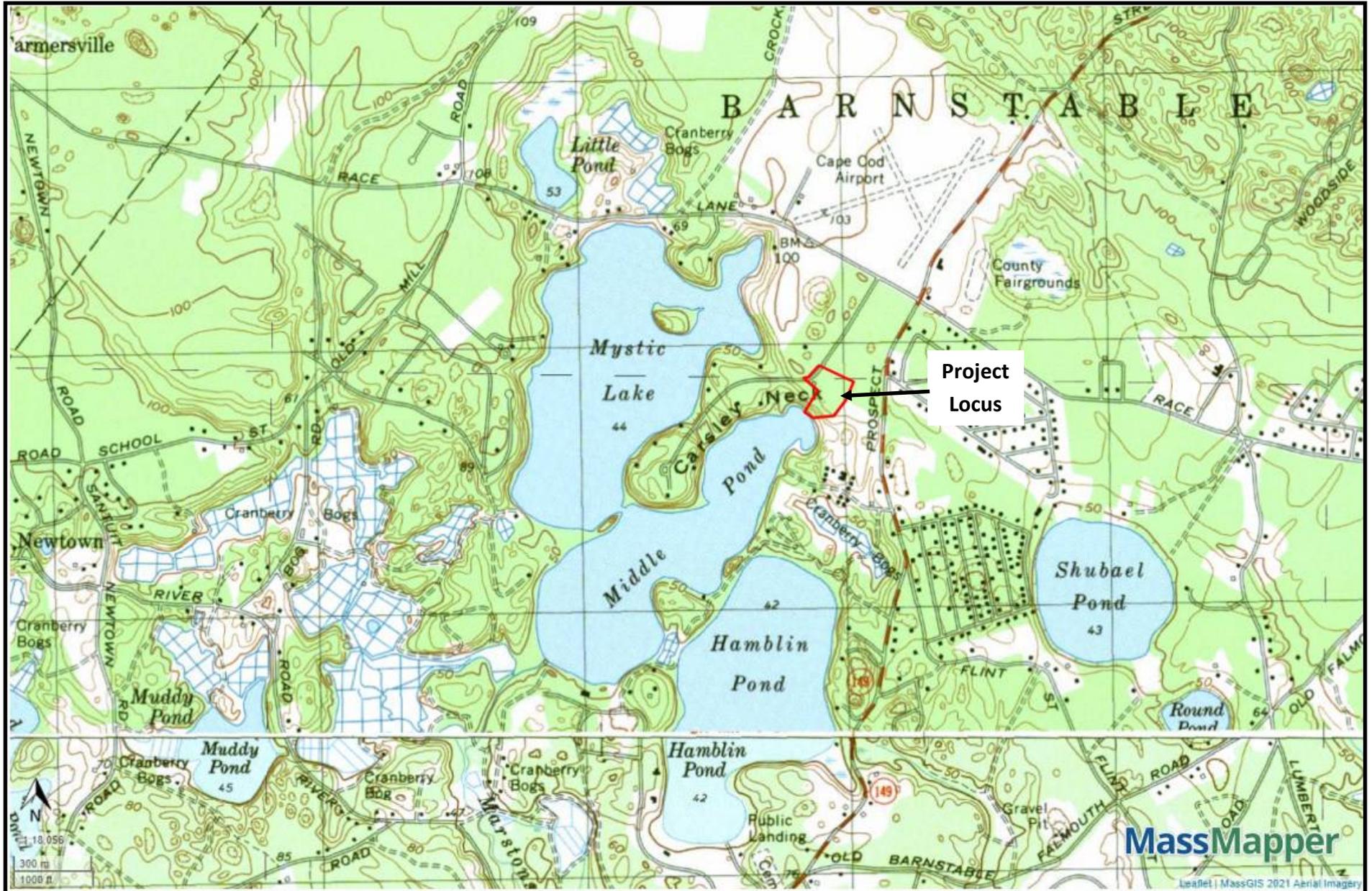
Preliminary Draft for Discussion



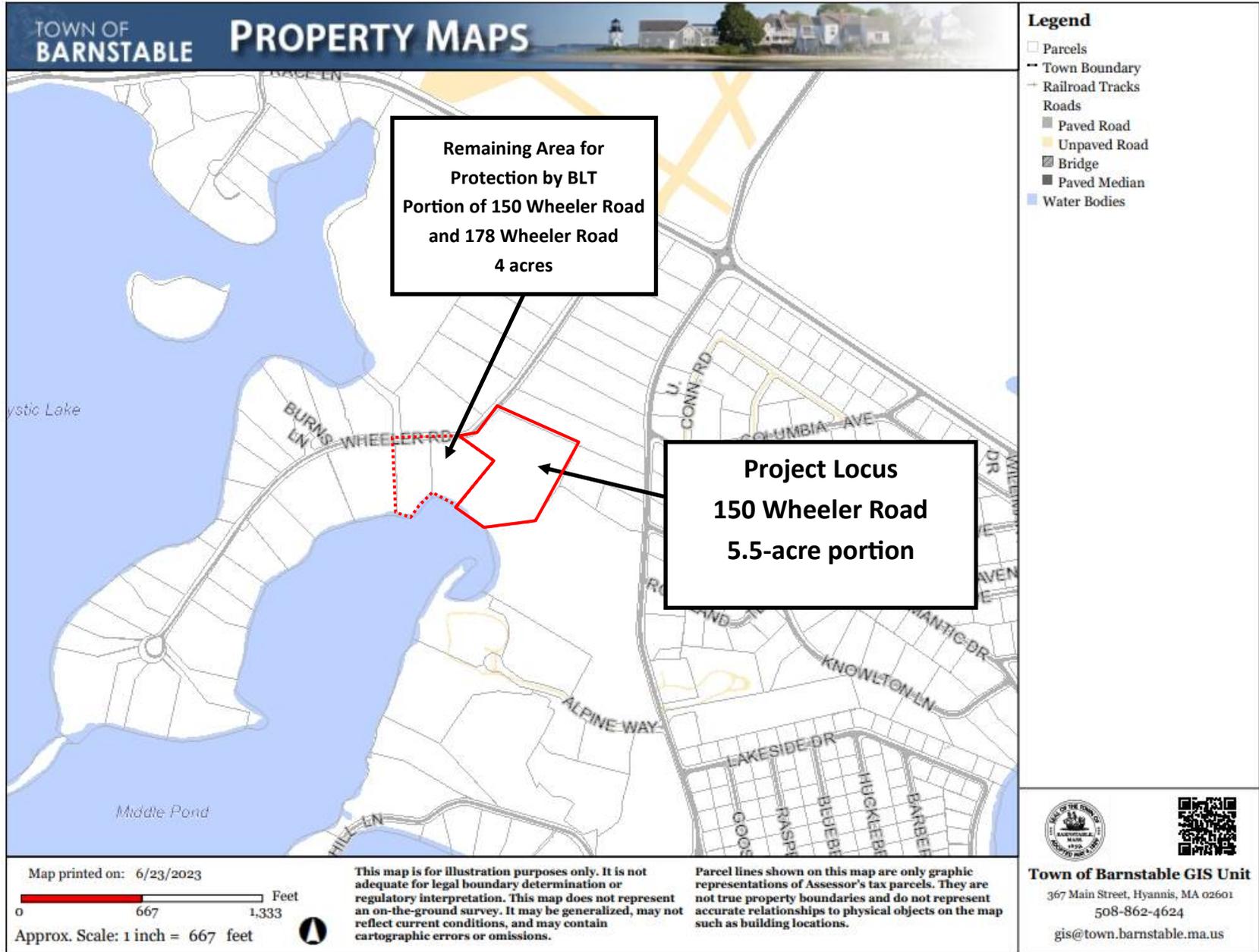
FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map A. Regional Locus Map



FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map B. USGS Topographical Map



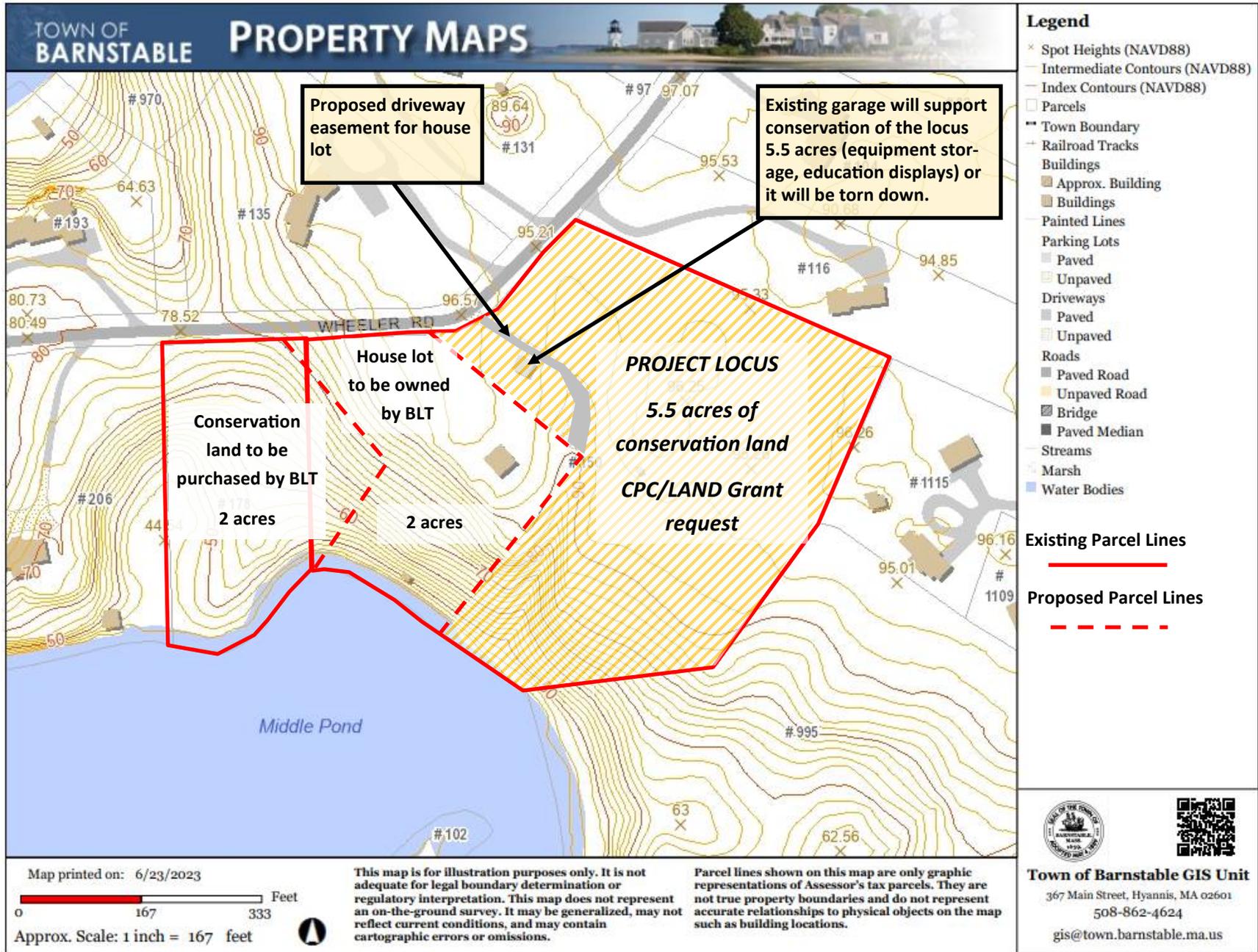
FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map C.1 Town Assessors map



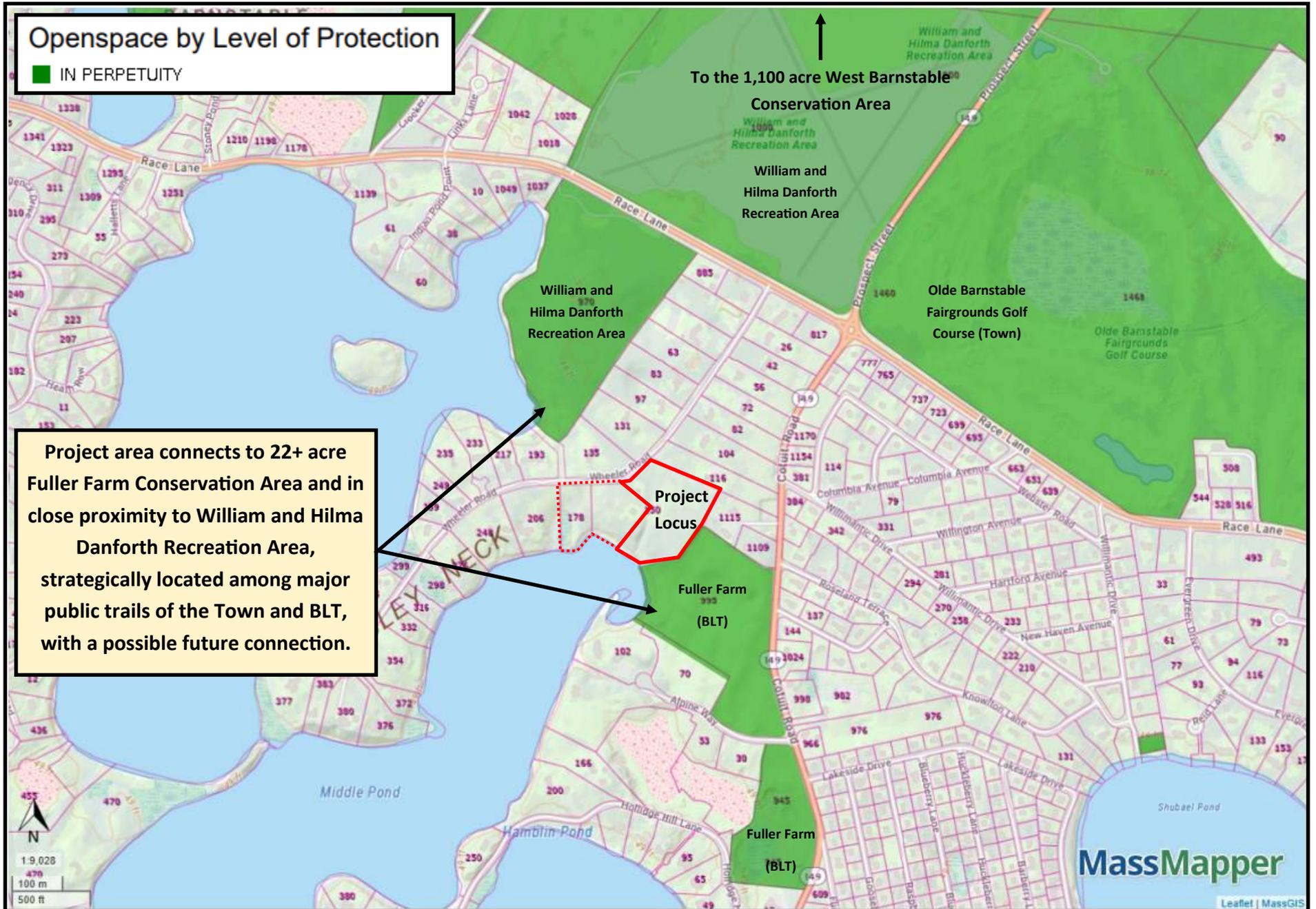
FY24 LAND GRANT PROGRAM APPLICATION

Wheeler Holly Preserve Conservation Restriction

Map C.2 Assessors Map Sketch Showing Project Area



FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
D.1 Existing Protected Open Space



FY24 LAND GRANT PROGRAM APPLICATION

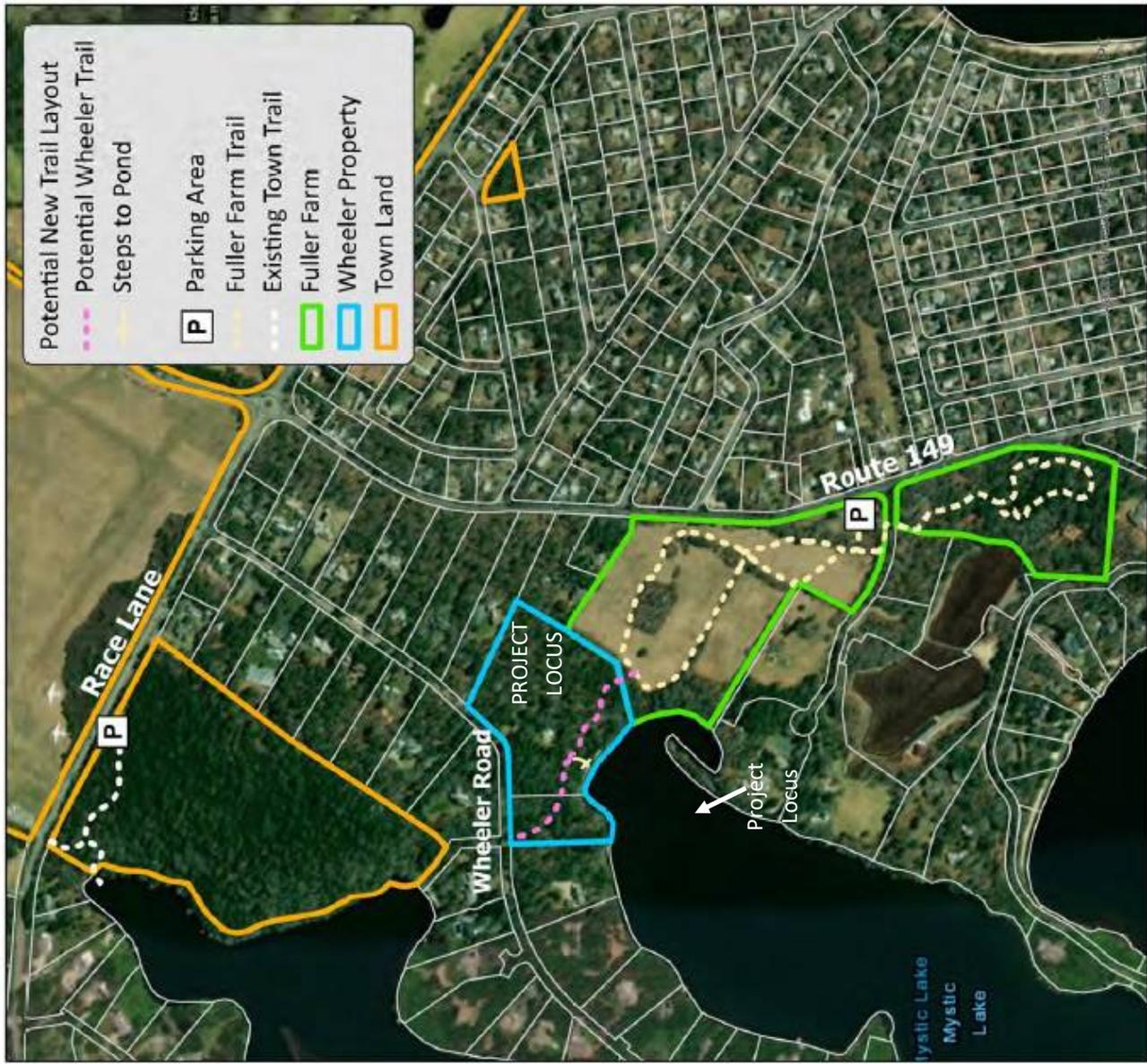
Wheeler Holly Preserve Conservation Restriction

Map D.2. Proposed Trail Connection to Existing Open Space

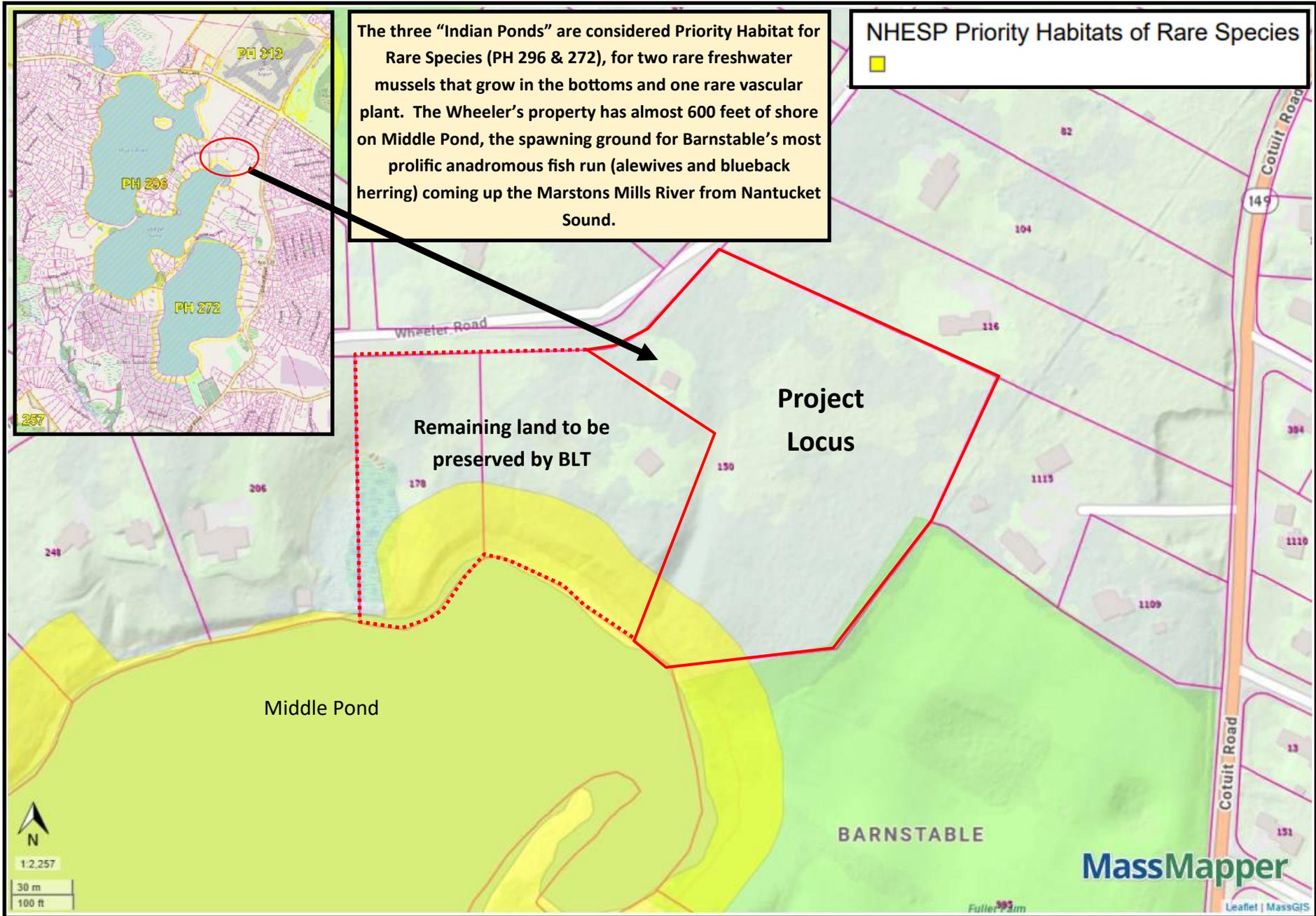


Wheeler - Potential Trail Layout

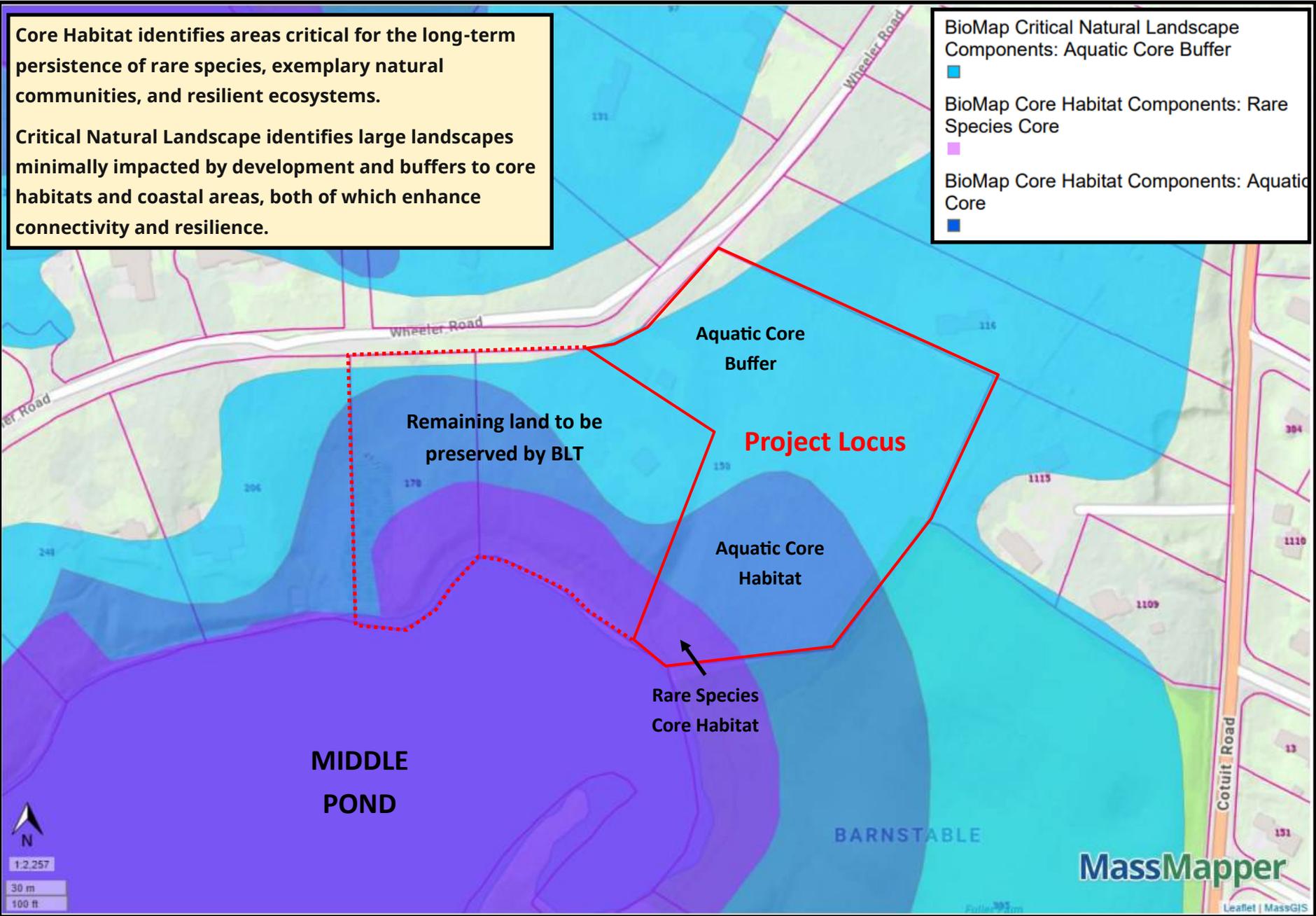
Preliminary Draft for Discussion



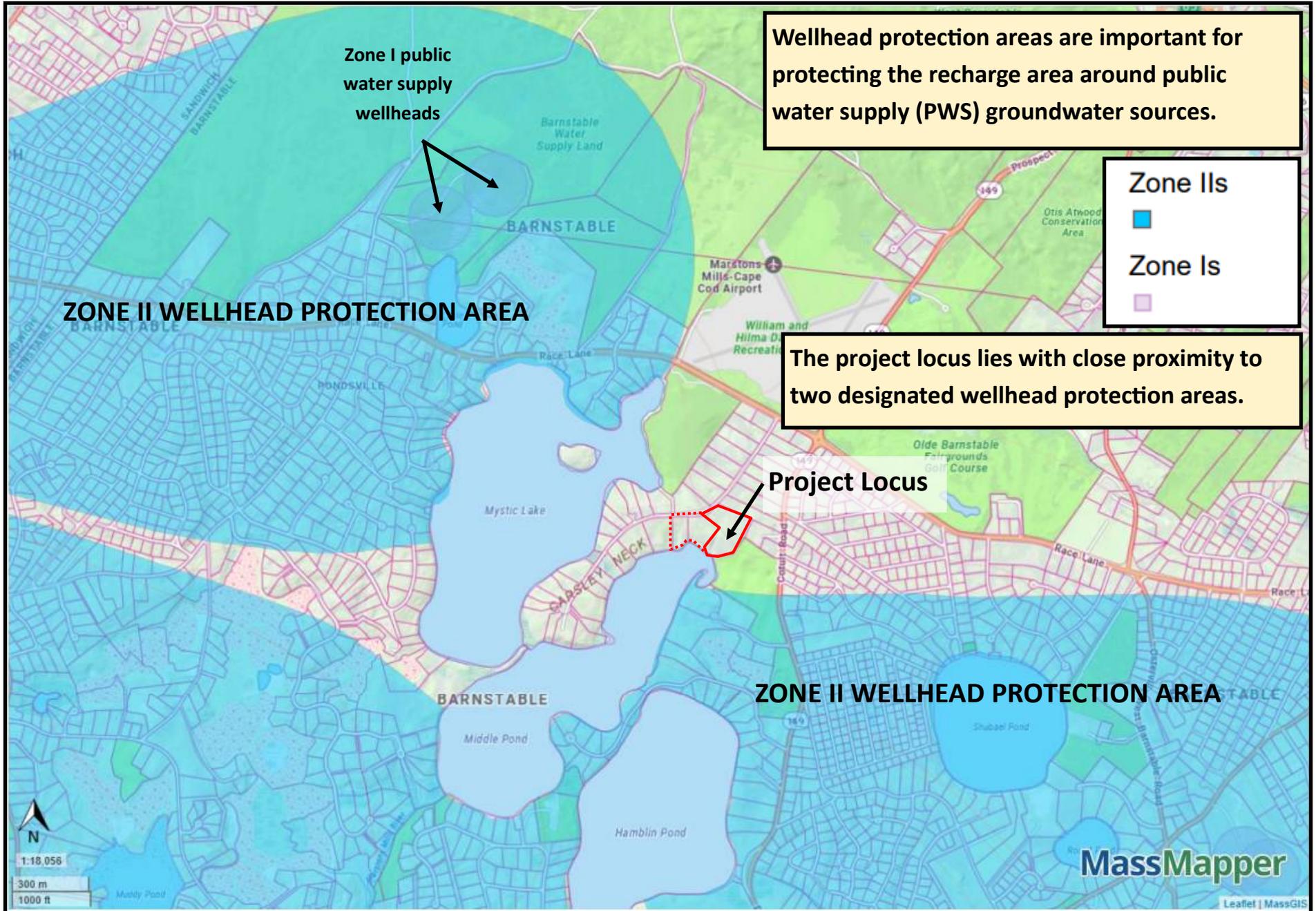
FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map E. NHESP Priority Habitat of Rare Species



FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
 Map F. BioMap Core Habitat and Critical Natural Landscape



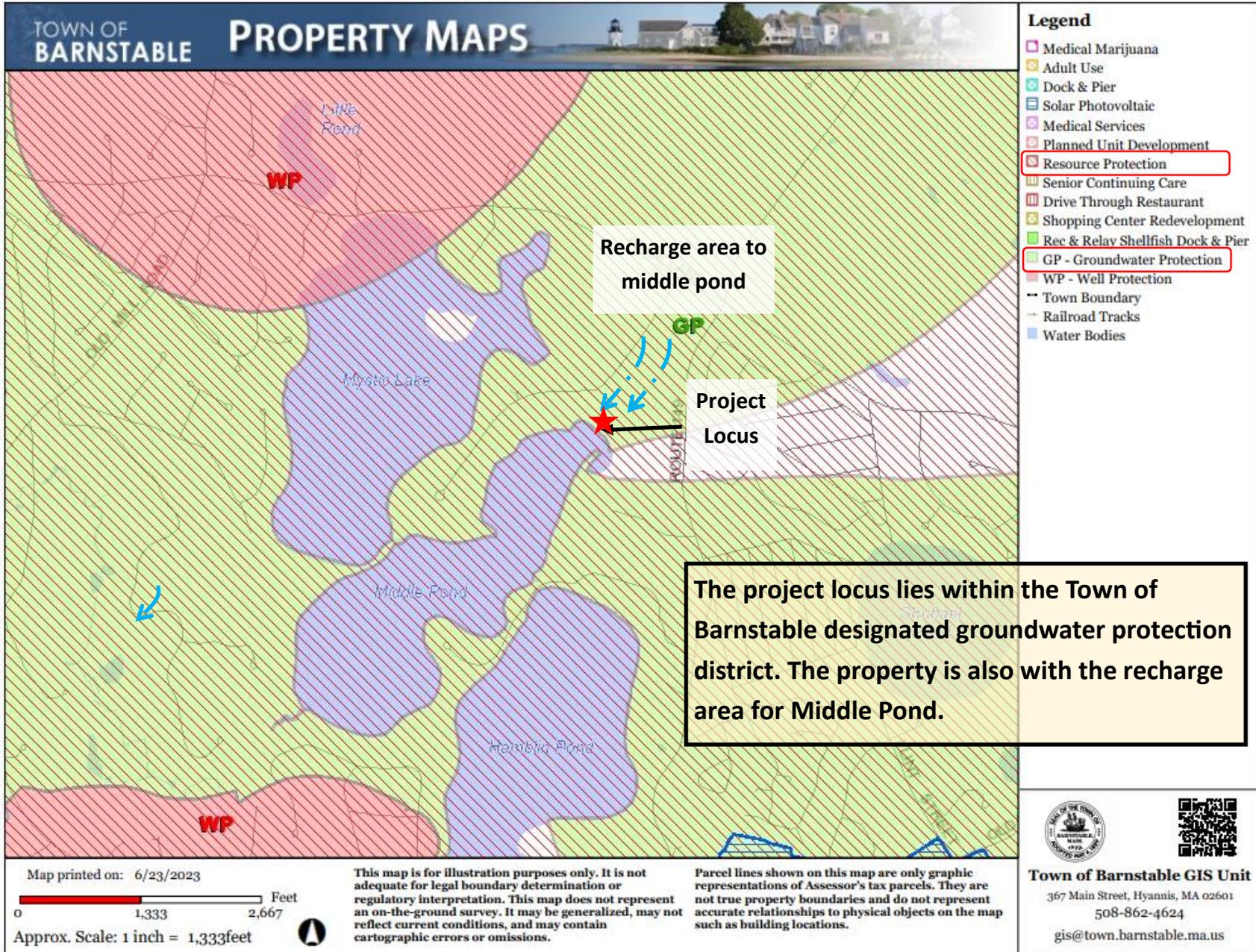
FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map G. Zone II Wellhead Protection Area



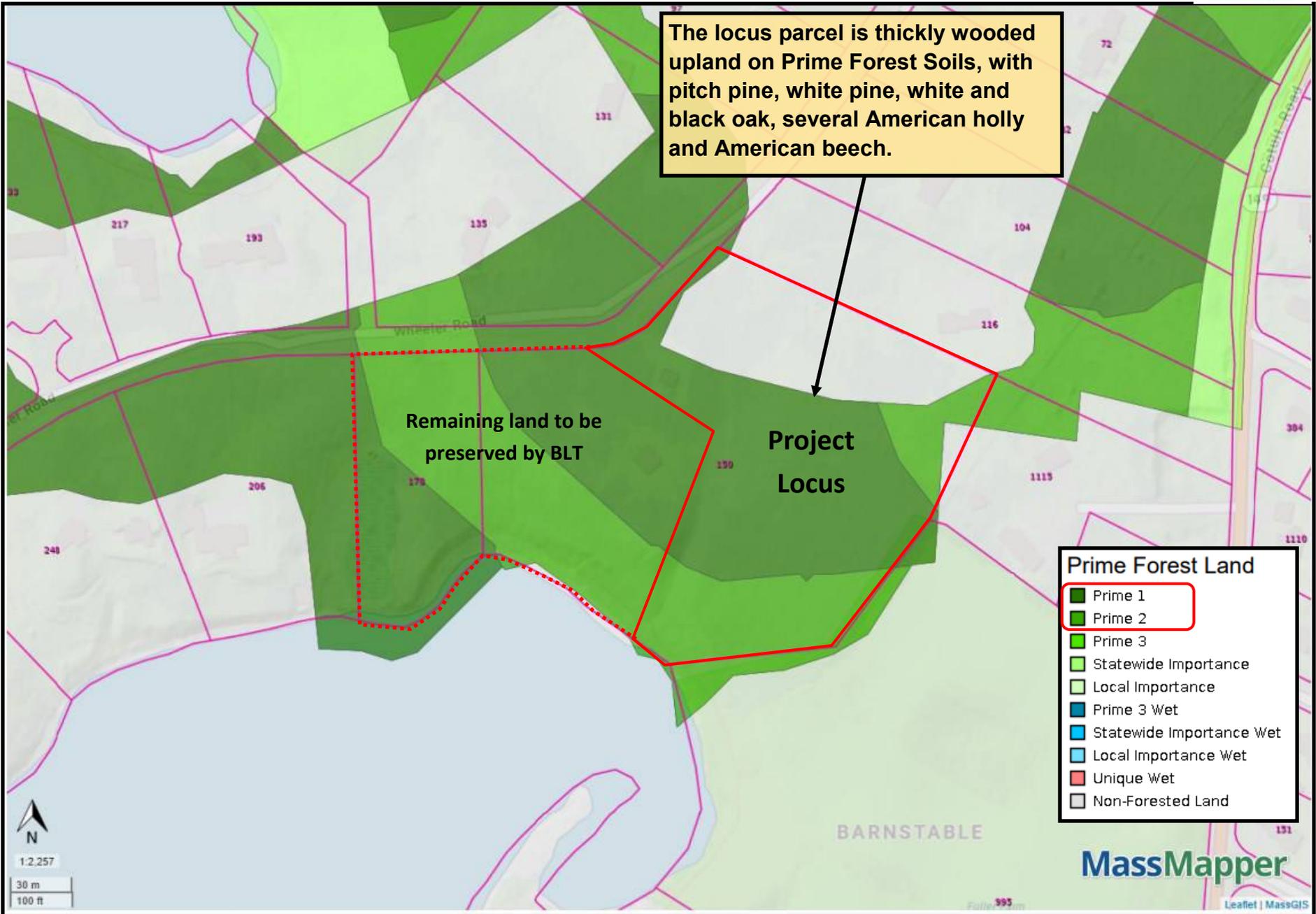
FY24 LAND GRANT PROGRAM APPLICATION

Wheeler Holly Preserve Conservation Restriction

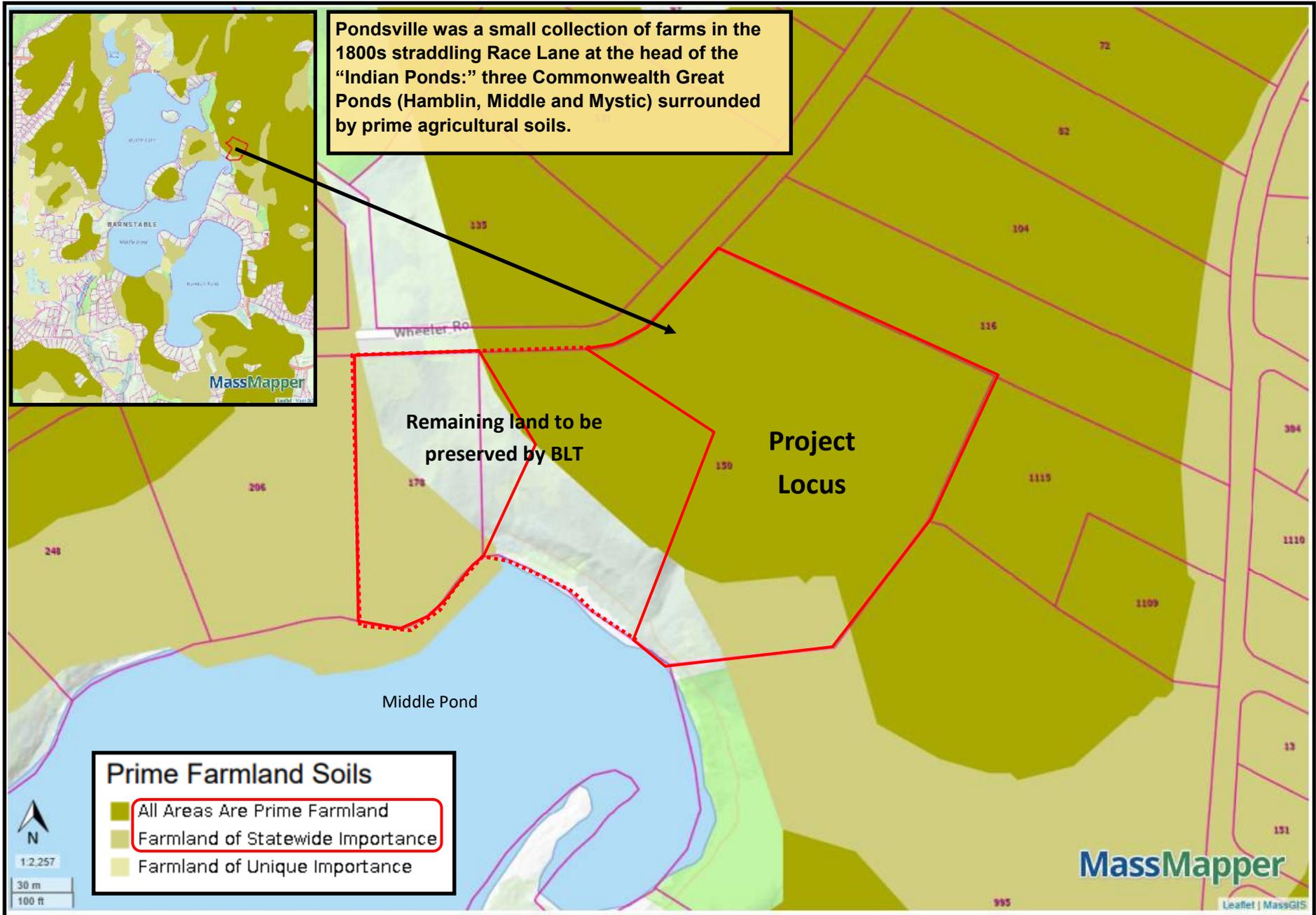
Map H. Pond Recharge Area



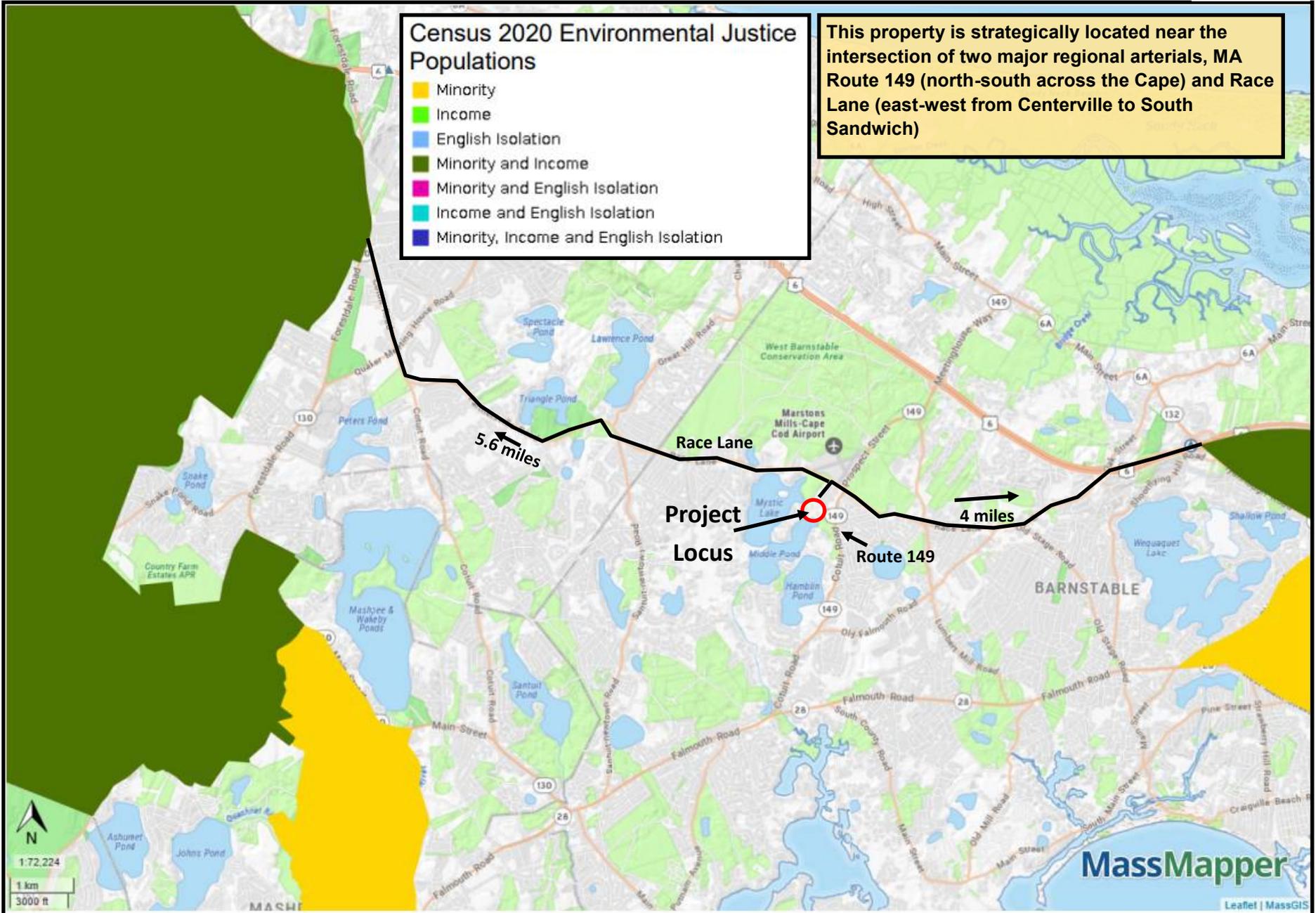
FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map I. Prime Forest Land



FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
Map J. Prime Farmland Soils



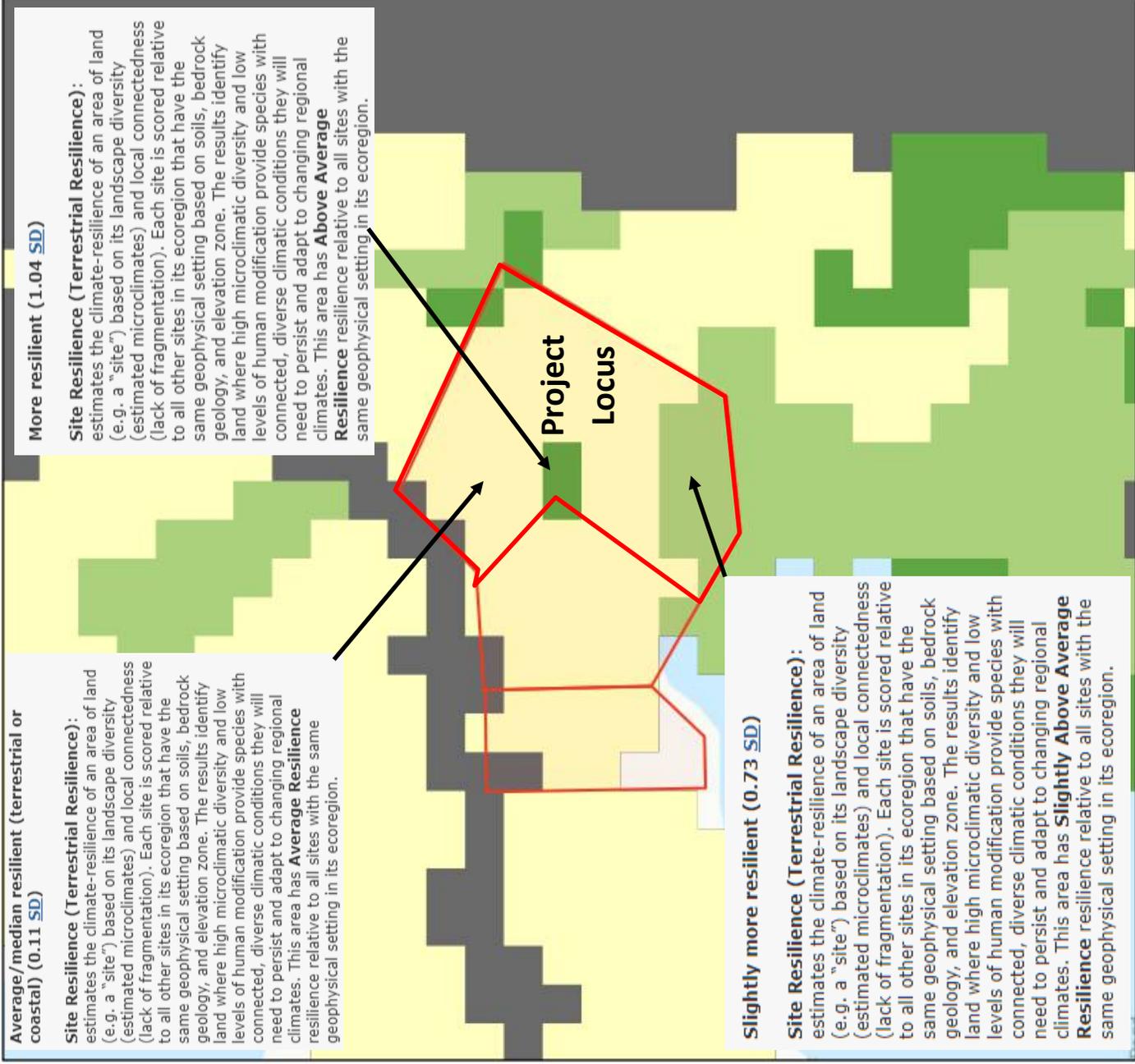
FY24 LAND GRANT PROGRAM APPLICATION
Wheeler Holly Preserve Conservation Restriction
 Map K. Environmental Justice Communities



FY24 LAND GRANT PROGRAM APPLICATION

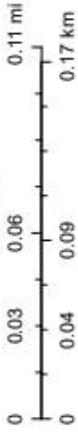
Wheeler Holly Preserve Conservation Restriction

Map L. The Nature Conservancy Resilient Land Mapping



July 10, 2023

1:4,326



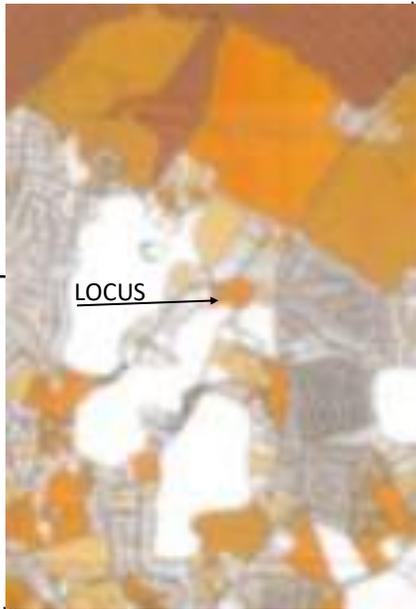
- GISDATA_L3_TAXPAR_POLY_ASSESSPolygon
- Slightly more resilient
- Ecoregion Boundaries
- Indigenous lands
- Resilient Sites (Customized)**
- Most resilient
- More resilient

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, The Nature Conservancy

FY24 LAND GRANT PROGRAM APPLICATION

Wheeler Holly Preserve Conservation Restriction

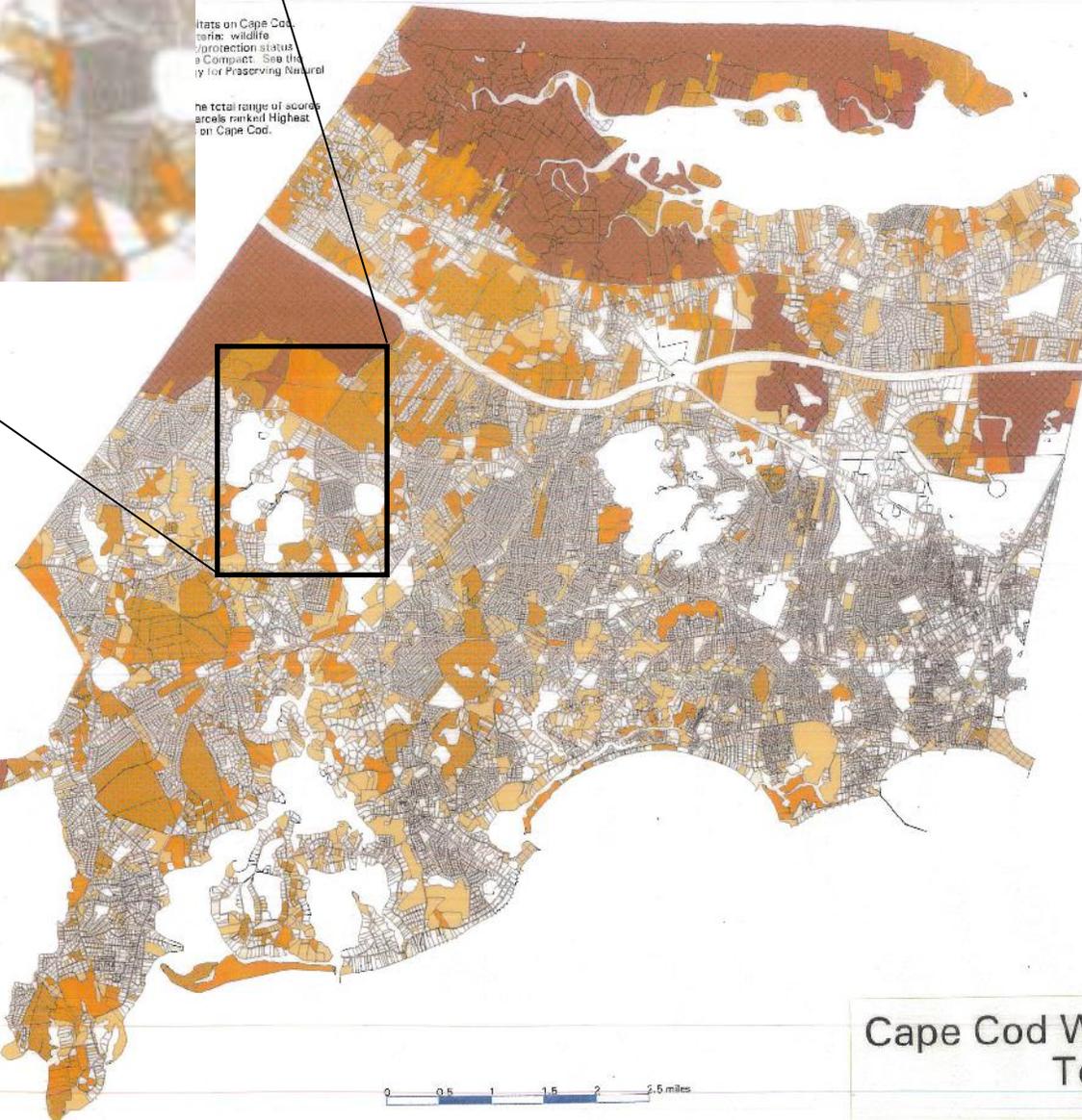
Map M . Wildlife Habitat Significance



Map M on Cape Cod
 series: wildlife
 protection status
 Compact. See the
 for Preserving Natural

the total range of scores
 parcels ranked Highest
 on Cape Cod.

NOTE: The 5.5-acre locus parcel (Wheeler Holly Preserve) ranked HIGH on a county-wide basis for its wildlife habitat significance in a 2003 report by The Compact of Cape Cod Conservation Trusts, Inc.



Habitat Protection Priority

-  LOW (0-.24)
-  MEDIUM (.25-.49)
-  HIGH (.50-.74)
-  HIGHEST (.75-1.0)
-  NOT RANKED (developed)
-  PROTECTED

June 2002
 prepared by:
 The Compact of Cape Cod Conservation Trusts, Inc.
 P.O. Box 443, Barnstable, MA 02630 USA

Funding provided by:
 International Fund for Animal Welfare
 The Nature Conservancy
 Sweet Water Trusts



Cape Cod Wildlife Conservation Project
 Town of Barnstable
 Parcel Ranking







TOWN OF BARNSTABLE
Community Preservation Fund
Schedule of Unreserved Fund Balances By Program Area
As of June 30, 2023

	<u>Program Area</u>			<u>Budget Reserve</u>	<u>Undesignated</u>	<u>Total</u>
	<u>Community Housing</u>	<u>Historic Preservation</u>	<u>Open Space Recreation</u>			
Fund Balance Forward From FY22	\$ -	\$ 261,778	\$ 1,002,911	\$ -	\$ 6,756,243	\$ 8,020,932
FY23 Revenue	-	-	-	-	5,907,013	5,907,013
<u>FY 2023 Appropriations:</u>						
FY 2023 Set-asides	546,161	546,161	546,161	2,614,771	(4,253,254)	-
FY 2023 Administrative Budget	-	-	-	-	(200,000)	(200,000)
FY 2023 Debt Service	-	(74,675)	-	-	(1,008,354)	(1,083,029)
2023-049 Conservation Restriction - Commerce Rd	-	-	(150,000)	-	-	(150,000)
2023-064 Zion Union Historic Museum	-	(261,778)	-	-	(618,772)	(880,550)
2023-069 Olde Colonial Courthouse	-	(125,000)	-	-	-	(125,000)
2023-142 Cape Cod Rail Trail Phase 3	-	-	(195,000)	-	-	(195,000)
2023-143 Cape Cod Rail Trail Phase 4	-	-	(300,000)	-	-	(300,000)
2023-144 Unitarian Church of Barnstable	-	(261,000)	-	-	(39,000)	(300,000)
2023-147 Osterville Playground	-	-	(904,072)	-	(95,683)	(999,755)
Subtotal	546,161	(176,292)	(1,002,911)	2,614,771	(6,215,063)	(4,233,334)
<u>FY 2023 Returned Funds:</u>						
Close Balance in Budget Reserve	-	-	-	(2,614,771)	2,614,771	-
Close Remaining Balance in FY23 Admin Funds	-	-	-	-	66,982	66,982
Subtotal	-	-	-	(2,614,771)	2,681,753	66,982
Remaining Balance Available From FY 2023	\$ 546,161	\$ 85,486	\$ (0)	\$ -	\$ 9,129,946	\$ 9,761,593
FY 2024 Estimated Revenue	-	-	-	-	5,033,896	5,033,896
FY 2024 Set-asides	503,390	503,390	503,390	-	(1,510,170)	-
FY 2024 Debt Service	-	(72,525)	-	-	(306,270)	(378,795)
FY 2024 Administration	-	-	-	-	(200,000)	(200,000)
FY 2024 Budget Reserve	-	-	-	3,017,456	(3,017,456)	-
Total Balance Available in FY 2024	\$ 1,049,551	\$ 516,351	\$ 503,390	\$ 3,017,456	\$ 9,129,946	\$ 14,216,694