

Town of Middleborough

CONSERVATION COMMISSION

July 15, 2013

Celia Reichel
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: LAND Grant application for proposed 103-acre acquisition, Middleborough
Lions Head Peninsula Protection Project

Dear Ms. Reichel:

On behalf of the Town of Middleborough, its Conservation Commission, and designated Project Manager Patricia Cassady, Conservation Agent, enclosed herewith is the Town's application to the Commonwealth's Fiscal Year 2014 LAND Grant program, pursuant to the proposed municipal acquisition of 103.09 acres in north Middleborough.

The Lions Head Peninsula Protection Project will preserve 103.09 acres of ecologically significant woodland, floodplain, and frontage along the Nemasket River in Middleborough, just east of the Nemasket's confluence with the federally-designated Wild and Scenic Taunton River. The Property is within Natural Heritage and Endangered Species Program-designated habitat areas for two rare species, the Northern Red-Bellied Cooter and the Eastern Box Turtle. The Property is also partially or completely within NHESP-designated BioMap Core Habitat and Critical Natural Landscape, Priority Habitat for Rare Wildlife, and Estimated Habitat for Rare Species, and includes at least two Potential Vernal Pools.

The project will enable public access for a wide range of passive recreational pursuits. The Lions Head property contains an existing network of woods roads and footpaths that collectively comprise about one mile. This existing network will easily transition to an outstanding trail system that will add greatly to Middleborough's existing walking paths. At present, the Town has very a limited network of walking trails in its municipal conservation lands portfolio, and few of these existing trails offer the type of experience that trails on the subject property will offer. There are also multiple opportunities for direct trail connections with contiguous and proximate properties. These new linkages would create an expanded trail system near the confluence of the Nemasket and Taunton Rivers, and represent a true community resource.

The project is also significant from a landscape context perspective. The Lions Head property is a critical component of an expanding open space assemblage along the lower Nemasket River corridor. A recent acquisition in the area by the Commonwealth's Division of Fish and Game added to this open space complex, and a transfer of MCI Bridgewater-held land to DFG is pending. In combination with these properties, the acquisition of the Lions Head property would expand the conservation portfolio near the Nemasket/Taunton confluence by 153 acres.

The Town is pleased to be collaborating on the project with two nonprofit land conservation organizations, The Nature Conservancy and Wildlands Trust. Both organizations have contributed extensive staff time to the project, have helped secure funding for the land purchase and due diligence expenses, and Wildlands Trust is poised to hold the permanent conservation restriction required by the Community Preservation Act.

The Lions Head property would represent an outstanding and substantial addition to Middleborough's open space portfolio, and on a larger scale, to the mosaic of conservation lands along the Wild and Scenic Taunton River corridor. We appreciate your consideration of our application, and look forward to working with you to preserve the Lions Head property.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles Cristello', with a long horizontal flourish extending to the right.

Charles Cristello
Middleborough Town Manager

**Local Acquisitions for Natural Diversity (LAND) Grant Program
APPLICATION FORM – FY2014**

Please print double-sided

I. APPLICANT INFORMATION

Project name: "Lion's Head Land Protection"

Municipality: Town of Middleborough

Population 2010: 23,116

Population 2000: 19,941

Contact person / project manager:

This is the person who will be the day-to-day manager of the project and who will represent the municipality in communication with DCS. **Attach authorization from the Chief Executive Officer identifying the individual named below.**

Name: Patricia J. Cassady

Affiliation with Municipality: Conservation Agent

Address at City or Town Hall: 20 Centre Street, 2nd Floor
Middleborough, MA 02346

Phone Number: 508-946-2406

Fax Number: 508-946-2309

E-mail address: pcssdy@middleborough.com

Date Prepared: June 27, 2013

2. COVER LETTER

Summarize the project's importance to the community's natural resource protection and/or passive outdoor recreation needs. Identify any financial or other partnerships formed to advance the project, and summarize the anticipated project timeline.

3. PROJECT DETAILS

Acres: 103.09

Number of parcels: 3

Interest municipality will acquire: Fee Conservation Restriction (CR) Both

If both, describe: Using CPA funds, which require a CR and the Conservation Commission will hold the fee. The CR will be held by a non-profit organization such as the Wildlands Trust or the Nature Conservancy.

Parcel information:

County: Plymouth Watershed: Taunton

Assessor's map/lot number: Map 21, Lot 1411 & 4652 & Map 12, Lot 4585

Current owner(s) Sarah Jigerjian and Mary Jigerjian

Address: 67 Murdock Street, Middleborough, MA 02346

Access:

Does property have frontage on a street?

Yes

No

If yes, list street(s):

Murdock Street

If no, describe how the public can access the property through adjacent landholdings. Grant funds are used to purchase land for conservation and public passive recreational use. Properties that do not have suitable public access will not be funded.

Can the property be safely accessed by foot or bicycle?

Yes

No

How many people live within one mile of the property?

2,000 +

Zoning: Residence A: Requires 175' frontage, 60,000 s.f. lot, 25' set back from the street, 10' set back from side and rear lot lines minimum required.

Past use(s): Forestry, Boy Scout Camping, known horseback riding from adjacent land owners

Present use(s): Forestry, Local Boy Scout Camping, Some trails and horseback riding

Proposed use(s): Conservation land with trails and access to the Nemasket River. Education.

Are there buildings or structures on the property?

Yes

No

If yes, list each and indicate current and planned use. The LAND Program is intended to preserve undeveloped land, not to purchase buildings. If the building is not to be used for conservation purposes, it is not eligible for grant funding and its value should be subtracted from the subject property.

There is a small outhouse and storage shed occasionally used by the Boy Scouts. These structures will be removed.

Will this project involve the removal of structures? Yes No
 Will this project involve the remediation of a greyfield, brownfield, or developed site? Yes No

If a brownfield, attach a copy of the most recent site assessment, either MCP Phase I or II, or ASTM Phase I or II, indicating the nature of the contamination and the remediation required for proposed use. Include in the Project Description a discussion of the importance of remediating the site, the plan for remediation, clear identification of disbursement of liability (e.g., will the town take it or will it reside with the current owner?), and any specific stewardship that will be undertaken to ensure that the site does not in the future pose undue risk to the public due to currently existing contamination. Also provide a remediation timeline that includes funding sources. Reminder: site remediation must be completed before reimbursement.

4. ACQUISITION AND FUNDING DETAILS

<u>Appraisal Report #1</u>	<u>Appraisal Report #2 (if land valued at over \$750,000)</u>
Valuation: \$ 430,000.00	Valuation: \$ _____
Appraiser: Real Worth Appraising & Consulting	Appraiser: _____
Valuation Date: July 15, 2013	Valuation Date: _____

Acquisition details:

Negotiated Sale: Yes No
 Do you have a Purchase & Sales Agreement or Agreed Price? Yes No
 If yes, amount: \$ _____

*Is Clear Title available? Yes No
 If no, is an eminent domain taking anticipated? Yes No
 If yes, proposed pro tanto award amount: \$ _____

*If clear title is not available, the applicant may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Can this project be completed in Fiscal Year 2015 (July 1, 2014 – June 30, 2015)? Yes No

Funding request:

Recipients of LAND grant funding are reimbursed *after* they have expended the total project cost and submitted proof of payment. See section 2E in RFR for eligible expenditures. The total project cost must be raised or appropriated by the municipality. Costs incurred prior to grant approval and contract execution will not be reimbursed. The reimbursement rate is 52-70%, based upon a municipality's Equalized Valuation Per Capita. See the DCS website for a list of rates.

Will funds from the Community Preservation Act (CPA) be used? Yes No
Use of CPA funds require the conveyance of a permanent Conservation Restriction, within the meaning of Ch. 184, to an eligible non-profit organization.

Have you identified an organization willing to hold the CR? Yes No

Name of organization: Wildlands Trust

Total estimated project cost: \$ 435,000.00
Reimbursement rate: 64 % (may be found here: www.mass.gov/eea/dcs-grants)
Funding request: \$ 278,400.00

Itemized project budget:

In an attachment, list all anticipated costs associated with the project for which you are seeking reimbursement. Include the source of all local funding including other grants, donations, partner organizations, CPA.

List any partners (such as non-profits) and describe their contribution.

If a greyfield, brownfield, or formerly developed site: include preliminary budget details for site remediation/restoration.

5. PROJECT DESCRIPTION

Describe in a two page attachment the following:

- Purpose of acquisition and proposed uses
- Description of property: natural resource values; proposed uses
- Consistency with Statewide Comprehensive Outdoor Recreation Plan (SCORP) and community Open Space & Recreation Plan (OSRP)
- Project schedule
- Consistency with any nearby State Priority Development or Preservation Areas as shown on the South Coast Rail Corridor Plan or the 495/MetroWest Development Compact Plan, or other regional plan.
- Plans for use of local wood in signage, waterbars, footbridge, etc.

6. PROJECT QUALITY

Check appropriate answer and provide supporting documentation.

Landscape conservation:

Total project area: 103.09 acres

Acres of protected open space or conservation land that property links or abuts: 32.50 acres

Recreational opportunities:

Municipal Open Space and Recreation Plan (OSRP):

To apply for this grant you must have a current, approved OSRP, or have submitted a draft OSRP by the grant application deadline. To be eligible to apply with only a draft, a municipality must have completed the public participation process.

List what goals, objectives, or action plan items in your current (or draft) OSRP this project meets. Attach to your application copies of the relevant pages (not the whole plan).

	Goal, objective, or action plan item from current OSRP	Page no.
1	Manage and improve the Nemasket River ecosystem (See attached)	43
2	Explore the possibilities of creating a Nemasket/Taunton River Corridor designation (See attached)	43
3	Preserve the rural character of the community (See attached)	43
4	Protect and maintain the abundant diversity of natural and rare habitats in Middleborough (See attached)	43
5	Support continued viability of agriculture and forest land management (See attached)	44
6	Continue to work on protecting land along the Taunton and Nemasket Rivers. (See attached)	45
7	Research the implementation of Timber Stand Improvements (TSI) on town owned forested lands. (see attached)	46

What public recreational opportunities will the project provide?

Check the box that best describes your project. Clarify in the space below if necessary.

Recreational opportunities will be verified by DCS during the site visit.

- Trail-based activities (ex. hiking, Nordic skiing, biking, horseback riding)
- Water-based activities (ex. canoeing, swimming, fishing, skating)
- Wilderness activities (ex. camping, hunting)
- Historic, cultural, or environmental education
- Community gardening or other community agriculture

Additional description: In addition to the water -based activities that could be utilized here
there is also the potential for hiking because of a pre-existing trail
network. There is potential for camping, canoeing, fishing,
horseback riding and environmental education, which historically
has been occurring on site with the permission of the land owners.

Biodiversity and resource protection:

Portion of the project that lies within or abuts MA Natural Heritage and Endangered Species Program (MNHESP) BioMap2 designated areas:

Core Habitat: See attached map acres

Critical Natural Landscape: see attached map acres

Project is located in an area identified as of importance for climate change adaptation, as defined by The Nature Conservancy's Resilient Sites for Terrestrial Conservation Focal Areas map (link to map is available on the DCS website at <http://www.mass.gov/eea/dcs-grants>)

- Yes No

Working lands:

Is the property currently enrolled in any of the following?

Chapter 6I or 6IA Forest Stewardship Program Forest or Farm Viability program

Will active forest management or agriculture continue or begin *after* the acquisition?

Note: agriculture and forestry activities must be compatible with conservation and public use of the property.

Yes No

If yes, describe forestry or farming planned: Continue with selective cutting per the
Forestry Plan. See Attached

Water resources:

Portion of the property that is 0-300ft from ocean, lake, pond, river, stream, wetland,
OR within an existing public drinking water supply area (Zone I/II or A/B),
OR over a medium- or high-yield aquifer:

None 1-24% 25-50% >51%

7. MUNICIPAL AUTHORIZATION:

Attach a certified copy of the Town Meeting or City Council vote, or draft language. Vote must conform to sample vote language criteria, available as Attachment E of this application, or online from DCS.

Do you have an affirmative town meeting vote / city council approval? Yes No

If not, what is the scheduled date for the vote? October 2013

8. OTHER IMPORTANT DOCUMENTATION:

1. **USGS topographic map** with an outline of the Project boundary. Include the location, acreage, ownership and use of other public or quasi-public open space abutting, or close to, the Project on the topographic map. Show current use of adjacent private lands. If applicable, show proximity to Priority Development and Preservation Areas as shown on the South Coast Rail Corridor Plan or the 495/MetroWest Development Compact Plan or other regional plan. This map will be used by DCS staff to perform a site inspection.
2. **Plot plan or survey map** showing the Project boundary. The Project area must be shown in enough detail to be legally sufficient to identify the lands to be protected. A registered survey plan with deed references or assessor's map with block and lot number are acceptable.
3. **Draft Conservation Restriction (CR)** – If your project involves the purchase or conveyance of a CR, please complete a separate CR application and submit a draft restriction along with this application. The CR application is available under "Publications" at the DCS website at www.mass.gov/eea/dcs. To obtain a copy of the Conservation Restriction Handbook, visit the DCS website, or contact Nicole Sicard. Submit the draft CR to:

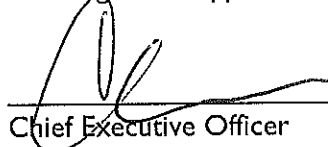
Nicole Sicard
Executive Office of Energy and Environmental Affairs

100 Cambridge St., Suite 900
Boston, MA 02114
617-626-1011

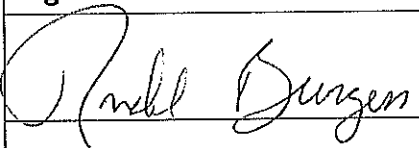
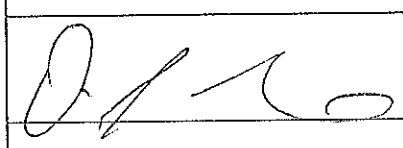

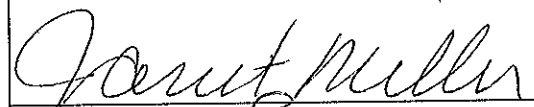
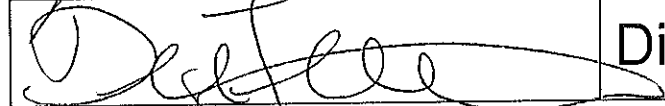
4. **Other state agency review** – If it is not possible to include responses in the application package to DCS, attach a copy of your cover letter requesting their input.
 - *Massachusetts Natural Heritage and Endangered Species Program*
(<http://www.mass.gov/dfwele/dfw/nhosp/nhosp.htm>).
 - *Massachusetts Historical Commission*
Send the MHC a PNF (<http://www.sec.state.ma.us/mhc/mhcpdf/pnf.pdf>) with a photocopy of the USGS locus map with the property boundaries clearly indicated, smaller-scale property maps if available, and a cover letter to include information about any known historic or archaeological sites. Send this certified mail, return receipt requested, so that you know when it was received. MHC will review and comment to DCS (and copy the applicant) within 30 days of receipt. There is no need to telephone or email the MHC. See these websites for any questions: <http://www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf> and <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>.
5. **Brownfields:** If the property to be acquired is a brownfield site, the applicant should submit documentation of the nature of contamination, the type of remediation required, and an estimate of the cost and time required for remediation. This should include a map of contaminant locations. Massachusetts Department of Environmental Protection maintains a database of known, current, waste sites and pollutant releases at <http://db.state.ma.us/dep/cleanup/sites/search.asp>. A more detailed, site-specific environmental cost estimate (or MCP Phase III Completion Report including a cost estimate) from a Massachusetts Licensed Site Professional will be required if a project is selected to receive funding (see <http://db.state.ma.us/dep/lsp/lspsearch.htm> for a list of LSPs). Applicants must prove that the site has achieved closure under MGL 21e by submitting either a Response Action Outcome (RAO) or Remedy Operation Status (REMOPS) prior to the end of the fiscal year of the award, before reimbursement will be made. If an Activity Use Limitation (AUL) deed clause is part of the RAO, a copy must also be submitted and approved before reimbursement.

9. SIGNATURES

Attach municipality's legal authority to apply for the grant, and the Chief Executive Officer's legal authorization to execute contracts. This is a resolution, motion or similar action that has been duly adopted or passed as an official act of the community's governing body that authorizes the filing of the application, including all understandings and assurances contained therein.

 _____ Charles Cristello _____ Date: 7/16/13
 Chief Executive Officer Type Official's Name

Conservation Commission members:

Signature	Printed Name
	Chair Ronald Burgess
	Steve Ventresca
	D. Jeffrey Erickson
	Debra Kirsch
	John Medeiros
	Janet Miller
	Diane Stewart

ATTACHMENTS – use this as a checklist.

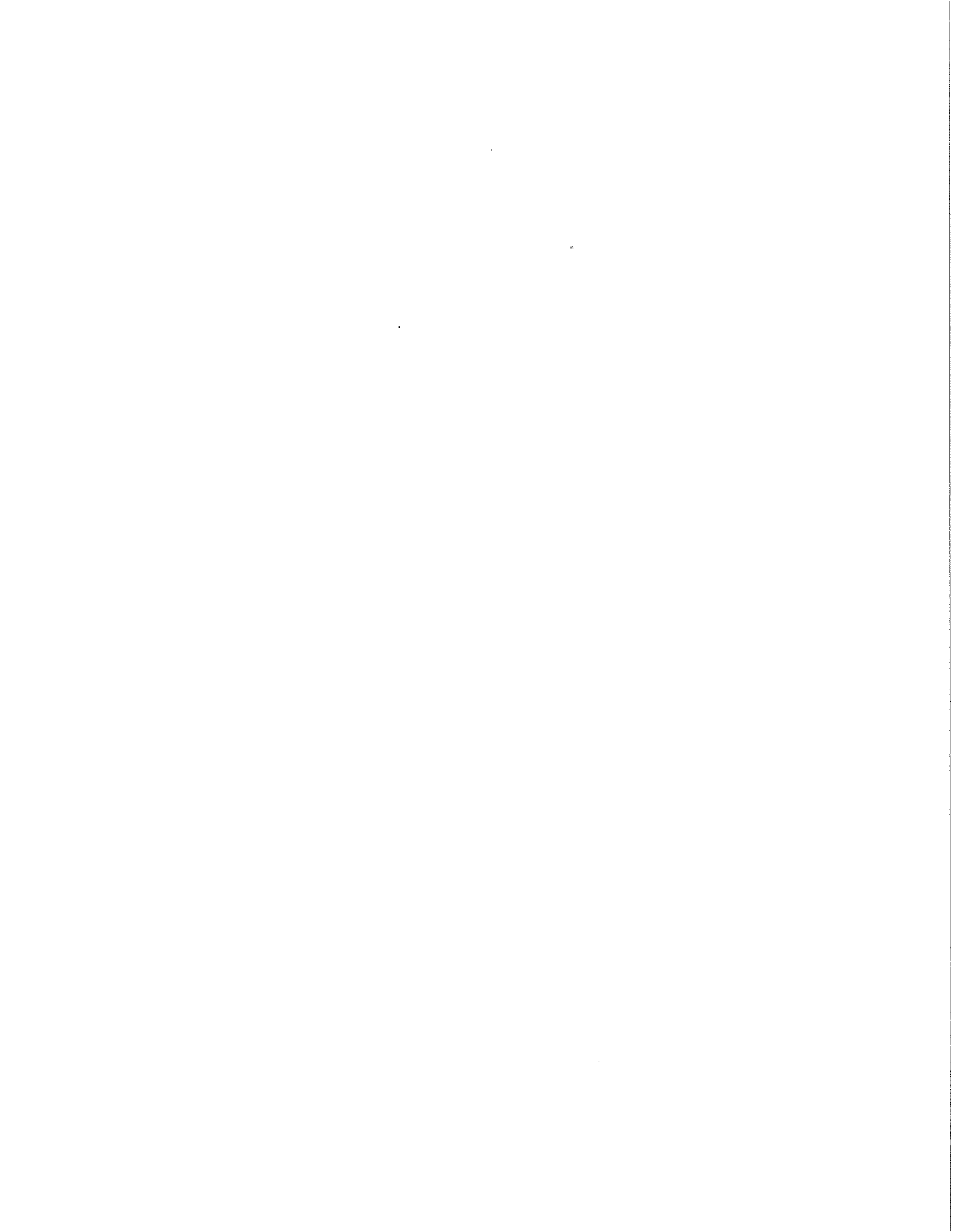
1. Municipal CEO's Authorization of Project Manager
2. Appraisal report(s)
3. Itemized budget
4. Project narrative
5. Maps of values and resources protected, proximity to other conservation lands
6. Documentation of rare species from the MA Natural Heritage and Endangered Species Program
7. Documentation of historic resources from the MA Historical Commission
8. Draft Conservation Restriction (if applicable)
9. Brownfields documentation (if applicable)

If selected for LAND funding, the following forms will be required to execute a contract:

- LAND Project Agreement
- Commonwealth Standard Contract
- Commonwealth Standard Terms & Conditions
- Contractor Authorized Signatory Listing

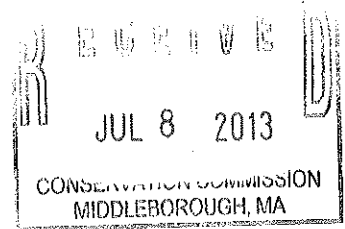
Draft Municipal Town Meeting Article

To see if the Town of Middleborough will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen to allow funding from the Community Preservation Act Fund to borrow the sum of (\$435,000.00) according to M.G.L. Chapter 44, Section 8C, for the purpose of purchasing for conservation and passive recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as "Lion's Head" consisting of 103.09 acres, more or less, as shown on a plan entitled "Plan of Land in Middleborough" made by (surveying firm dated); that said land be conveyed to said Town of Middleborough under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of Middleborough, and the Conservation Commission be authorized to file on behalf of Middleborough any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts deemed necessary under Chapter 132A, Section 11 and /or any others in any way connected with the scope of this Article, and the Town of Middleborough and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of Middleborough to affect said purchase.



Draft Community Preservation Act Town Meeting Article:

To see if the Town of Middleborough will vote to raise, borrow and/or appropriate \$156,600.00 for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately 103.09 +/- acres owned by Sarah Jigerjian and Mary Jigerjian as described on Assessors Map 21 Parcels 1141 & 4652 and Map 12, Parcel 4585, to be managed and controlled by the Conservation Commission of the Town of Middleborough in accordance with Chapter 40, Section 8C for conservation and passive recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager or Board of Selectmen be authorized to file on behalf of the Town of Middleborough any and all applications deemed necessary under the Self-Help Act (M.G.L. Chapter 132A, Section 11) or any other applications for funds in any way connected with the scope of this acquisition, and the Town manager and the Board of Selectmen and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town of Middleborough to affect said purchase. Said conservation restriction may be granted to the Wildlands Trust or any other organization qualified and willing to hold such a restriction.



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

July 2, 2013

Celia Riechel
LAND Grant Program Supervisor
Division of Conservation Services
Massachusetts Executive Office of Energy & Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Lion's Head Land Acquisition, Murdock Street, Middleborough, MA. MHC # RC.54467.

Dear Ms. Riechel:

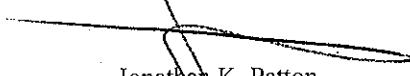
Staff of the Massachusetts Historical Commission have reviewed the Project Notification Form (PNF) submitted for the proposed land acquisition project referenced above. The project consists of the purchase of approximately 103 acres for conservation along the Nemasket River in Middleborough.

Review of the Inventory of Historic and Archaeological Assets of the Commonwealth determined that no historic or archaeological resources are recorded in the parcels proposed for acquisition. However, multiple ancient Native American archaeological sites are recorded in proximity within similar environmental settings. Undisturbed portions of the parcels are considered by the MHC to be highly archaeologically sensitive. This archaeological sensitivity is primarily due to environmental setting, with areas of level, well-drained soils in close proximity to wetlands and water resources associated with the junction of the Nemasket and Taunton Rivers, favorable for ancient Native American and historic period land use and occupation. The property is within a core area of ancient Native American settlement that has been occupied for many thousands of years, and the Nemasket River is documented as an important transportation corridor.

Acquisition of the parcels for conservation will assist to protect and preserve significant archaeological sites that may be present. If long-term preservation of the parcels are proposed through a Conservation Restriction (M.G.L. Chapter 184, sections 31-33), then MHC staff are willing to assist in review and comment on appropriate language for the preservation and protection of historic and archaeological resources within the parcels. The draft CR may be submitted to the MHC for review and comment when it becomes available.

These comments are offered to assist in compliance with Massachusetts General Law, Chapter 9, Sections 26-27C (950 CMR 71). Please contact me at this office if you have any questions or require additional information.

Sincerely,


Jonathan K. Patton
Archaeologist/Preservation Planner
Massachusetts Historical Commission

xc: Patricia Cassidy, Middleborough Conservation Commission
Irene DelBono, EEA-DCS
Middleborough Historical Commission

FILE



Stewardship Council

July 12, 2013

Celia Reichel
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: LAND Grant application for proposed 103-acre Jigerjian acquisition, Middleboro
Lions Head Peninsula Protection Project

Dear Ms. Reichel:

The Taunton River Wild and Scenic Stewardship Council emphatically endorses the Town of Middleboro's application to the Commonwealth's LAND Grant program, pursuant to the proposed municipal acquisition of 103 acres in north Middleboro.

The Lions Head Peninsula Protection Project will preserve 103 acres of woodland, floodplain, and riparian frontage along the Nemasket River in Middleboro, just east of the Nemasket's confluence with the Wild and Scenic Taunton River. The project will protect approximately one mile of river frontage, enable public access for a wide range of passive recreational pursuits, protect habitat for rare species, and combine with existing open space holdings to create a sizable open space assemblage along the lower Nemasket corridor. A recent acquisition in the area by the Commonwealth's Division of Fish and Game has expanded this open space complex, and a transfer of MCI Bridgewater-held land to DFG is pending. In combination with these properties, the acquisition of the Lions Head property would expand the conservation portfolio near the Nemasket/Taunton confluence by 153 acres.

According to the Natural Heritage and Endangered Species Program, the Property is within designated habitat areas for two rare species, the Northern Red-Bellied Cooter and the Eastern Box Turtle. The Property is also partially or completely within NHESP-designated BioMap Core Habitat and Critical Natural Landscape, Priority Habitat for Rare Wildlife, and Estimated Habitat for Rare Species, and includes at least two Potential Vernal Pools.

The proposed acquisition is consistent with many of the goals and objectives contained in the Taunton River Stewardship Plan, prepared as part of the river's Wild and Scenic designation effort and implemented by the Stewardship Council. The plan specifically recognizes the Nemasket River's immense historical and ecological value, citing its connection to the Wampanoag Canoe Passage and its herring run, considered the most important and prolific in the entire Commonwealth of Massachusetts.

The Lions Head property would represent an outstanding and substantial addition to the mosaic of conservation lands along the Taunton River corridor. Please afford the highest consideration to Middleboro's request for LAND Grant funding.

Sincerely,

Louis Bousquet

Louis Bousquet

Chair, Taunton River Wild and Scenic Stewardship Council

Bill Napolitano

William Napolitano

Environmental Program Director

Southeastern Regional Planning and Economic Development District

Local Program Administrator, Taunton River Wild and Scenic Stewardship Council

Project Budget - Lion's Head Property
Middleborough, MA

Reimbursable Project Costs

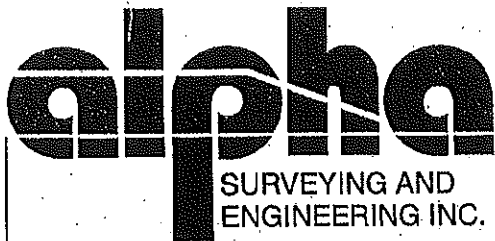
Land Purchase (103 acres)	\$430,000
Survey (less \$10k provided by TNC)	\$1,000
Title Examination	\$2,000
Recording Fees	\$2,000
Total Project Costs	\$435,000

Sources of Project Funding (anticipated):

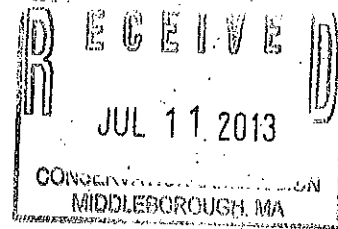
MA LAND Program (Middleborough 64% reimbursement)	\$278,400
Middleborough CPA Funds	\$156,600
Total Project Funding	\$435,000

Non-Reimbursable Project Support

The Nature Conservancy/William Wharton Trust (survey)	\$10,000
Wildlands Trust/Taunton River Stewardship Council (appraisal)	\$3,500
Total	\$13,500



July 10, 2013



8:29am

Patricia Cassady, Agent
Conservation Commission
Town of Middleborough
20 Centre St, 2nd floor
Middleborough, MA 02346

Subject: Proposal for Surveying Services - Response to RFP for the Preparation of a Perimeter Plan of three parcels (103.1 Acres) on the Nemasket River off Murdock St., Middleborough, MA

Dear Ms. Cassady:

Alpha Surveying & Engineering, Inc ("Alpha") is pleased to submit this response to the Town of Middleborough's Bid Request dated June 27, 2013 which attached hereto. Alpha will provide survey services for a boundary survey, preparation of a recordable Easement Plan of Land, and the installation of six (6) concrete monuments of the three parcels in the Bid Request. Our survey will tie into the monuments shown on record plans, and monuments will be installed at select corners not currently monumented. Monuments lying within wetlands may be eliminated after conferring with the Client. Alpha will draft a recordable plan depicting the property boundaries, monuments set or found and approximate limits of wetland boundaries and the Nemasket River bank. The plan will also depict the conservation restriction easement being created by the Town of Middleborough. Alpha proposes to provide the Town of Middleborough Conservation Commission ("Client") the following specific services based on the attached Terms and Conditions which are made a part of this agreement.

SCOPE OF SERVICES

- 1.1 Alpha will perform research at the Town of Middleborough Assessor's Department and the Plymouth County Registry of Deeds to obtain abutter information, street layouts, and record plans and deeds of the three subject parcels and the abutting properties.
- 1.2 Alpha will perform reconnaissance for monumentation shown on record plans and called for in the deeds of record. An on-the-ground boundary survey will be performed and the recovered record monumentation will be located as part of the control survey. In addition, Alpha will locate definable limits of wetlands/standing water and the bank of the Nemasket River based on visible evidence.
- 1.3 Alpha will download, analyze, and process the data. The property boundaries will be calculated from the record plans and deeds and reconciled with the monumentation located in the field to re-establish the property lines. An Easement Plan will be prepared at an appropriate scale and in conformance with the Rules and Regulations of the Registry of Deeds of the Commonwealth of Massachusetts. The approximate wetland boundaries as located by visible evidence will be shown, and where not discernible in the field, will be compiled either from plans provided or from MassGIS-DEP files. Abutter information from assessors' records will be shown for all parcels within and abutting the subject parcels. The Client will be provided a draft copy for review and comment. Upon receiving the Client's comments, Alpha will finalize the plan and provide the Client with one Mylar and six (6) hard-copy paper prints stamped and signed by a Massachusetts Registered Professional Land Surveyor.
- 1.4 Alpha proposes to set six (6) concrete bounds at the corners, or near the end of property lines terminating in wetlands or the Nemasket River which are not currently monumented, and as mutually agreed upon with the Client.

2.0 SCHEDULE FOR SERVICES

Alpha is prepared to commence work on the services described in Section 1.0 above upon authorization to proceed and proposes delivering the survey within a schedule to be mutually agreed upon with the Client.

3.0 FEES FOR SERVICES

Alpha proposes a lump sum fee (including expenses) to perform the services described in Section 1.0 based on the following breakdown:

Items 1.1 – 1.3 Survey & Plan	\$ 9,660
Item 1.4 Install 6 bounds	<u>\$1,650</u>
Total Fee*	\$11,310

*Fee may be adjusted if more or less bounds are set

The mailing address for all payments is:

Alpha Surveying & Engineering, Inc
695 Wareham Street
Middleboro, MA. 02346

4.0 GENERAL CONSIDERATIONS

4.1 Alpha will perform all services in a timely manner, but it is agreed between the parties to this agreement that Alpha cannot be responsible for delays occasioned by factors beyond its control, nor by factors which could not reasonably have been foreseen at the time this agreement was prepared and executed.

- 4.2 During the performance of the services described within this Agreement, the Scope of Services and compensation may be adjusted by mutually agreed upon Change Orders to this Agreement.
- 4.3 This proposal is valid for the duration of the period the Town of Middleborough is seeking the grant and CPA funding for this project. Please sign and make a copy of this Agreement for your records and a copy to Alpha. Our receipt of this executed Agreement shall constitute authorization to proceed.

Please do not hesitate to call should you have any questions regarding this proposal. Alpha is pleased to have this opportunity to provide a proposal for our professional services and looks forward to the opportunity to work with the Town of Middleborough on this project.

Sincerely,

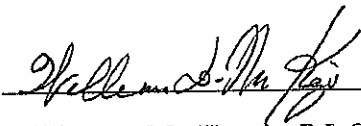
Robert A. Perruzzi, PLS

PROPOSED BY:

Alpha Surveying and Engineering, Inc.

ACCEPTED BY:

Town of Middleborough
Conservation Commission



William D. MacKenzie, P.L.S. President

Authorized Representative

7-10-13

Date

Date

**LAND GRANT PROJECT DESCRIPTION
LIONS HEAD PENINSULA PROTECTION PROJECT
MIDDLEBOROUGH, MASSACHUSETTS**

PURPOSE OF ACQUISITION: The purpose of the proposed acquisition is to permanently preserve 103.09 acres of woodland, floodplain, and riparian frontage along the Nemasket River in Middleborough, just east of the Nemasket's confluence with the federally-designated Wild and Scenic Taunton River. The project will create an outstanding nature reserve in an area historically underserved by conservation efforts, protect approximately one mile of river frontage, enable public access for a wide range of passive recreational pursuits, enable the creation of an expanded network of hiking trails, protect habitat for rare species, and combine with existing open space holdings to create a large open space assemblage along the lower Nemasket corridor.

The most important threat to the Property at this time derives not from its development potential, but from the family circumstances of its owners. One of the two sisters owning the property, Sarah Jigerjian, passed away June 21, 2013 as this application was in process, and the surviving sister Mary Jigerjian is in poor health. It is fortunate that the sisters held the Property as joint tenants by the entirety with rights of survivorship, thereby vesting Mary with full title. However, given Mary's fragile condition, there remains great urgency to protect the Property in the near term, as Mary does not have a valid Last Will and Testament, and following her death her interest in the Property would devolve into an estate situation replete with uncertainties. Both sisters have long expressed an interest in preserving the Property, but have never formalized their intentions.

PROPOSED USES: The proposed project will create significant new opportunities for land and water-based recreation that are for the most part unavailable in Middleboro, and therefore satisfy a community need for place-based recreation. Although there are some significant conservation reserves elsewhere in Middleboro, it is difficult to access them because of extensive wetland areas, lack of road frontage, or the absence of a defined trail system. In contrast, the Lions Head Peninsula Property is unencumbered by these constraints.

The Property contains an existing network of woods roads and footpaths that collectively comprise about one mile. This existing network will easily transition to an outstanding trail system that will add greatly to Middleborough's existing walking paths. At present, the Town has very a limited network of walking trails in its municipal conservation lands portfolio, and none of these existing trails offer the type of experience that trails on the subject property will offer.

The Lions Head Peninsula property is already well-known and appreciated by many in the Middleborough community. The current owners have long maintained a tradition of allowing community groups, including the Boy Scouts, to use the land for recreational activities, and from time to time have publicly stated their intentions to eventually conserve their land and have it open to the public.

The Town intends to keep the trailhead parking area open on a year-round basis to allow for winter recreational pursuits including cross-country skiing and snowshoeing. The Town DPW will plow the trailhead area during the winter months as needed, and in other seasons will periodically monitor the area to ensure that it remains open and accessible for all user groups.

There are multiple opportunities for direct trail connections with contiguous and proximate properties, as depicted on the attached map entitled "Existing Woods Roads". These new linkages would create an expanded trail system near the confluence of the Nemasket and Taunton rivers that would far surpass anything currently existing in Middleborough, and would also be regionally significant.

The Town is also likely to pursue periodic forest management activities on the Property, as the current owners have done for the balance of their three-decade ownership tenure under the stewardship of a professional forester. Keeping the Property under forest management will help to maintain habitat diversity, produce a revenue stream for the Conservation Commission, and help educate townspeople and other visitors to the Property of the benefits that accrue from active forest management.

DESCRIPTION OF PROPERTY: The Property is located off the west side of Murdock Street in lightly developed northwest Middleborough. It includes 103.09 acres of primarily forested upland, 81 of which is contiguous. Topography is primarily level. It includes over 5,000 feet of frontage on the lower Nemasket River, not far from its confluence with the Taunton River, a National Wild and Scenic River since 2009. It also includes Murdock Street frontage sufficient for a trailhead parking area, and a network of woods roads that provide easy access into the Property.

NATURAL RESOURCE VALUES AND CHARACTERISTICS: The Property's 103.09 acres includes approximately 95 acres of upland forest, eight acres of vegetated wetlands, and about one-half acre of water contained in two small ponds. Its extensive Nemasket River frontage provides quality riparian habitat, as the Nemasket supports one of the most productive warm water fisheries in southeastern Massachusetts and part of what fisheries experts consider the region's most significant alewife run.

According to the Natural Heritage and Endangered Species Program, the Property is within designated habitat areas for two rare species, the Northern Red-Bellied Cooter and the Eastern Box Turtle. The Property is also partially or completely within NHESP-designated BioMap Core Habitat and Critical Natural Landscape, Priority Habitat for Rare Wildlife and Estimated Habitat for Rare Species, and includes at least two Potential Vernal Pools.

CONSISTENCY WITH SCORP AND OSRP: Relevance to SCORP Guidelines: The Lions Head Peninsula Protection Project aligns with and advances three of the four SCORP goals, as follows:

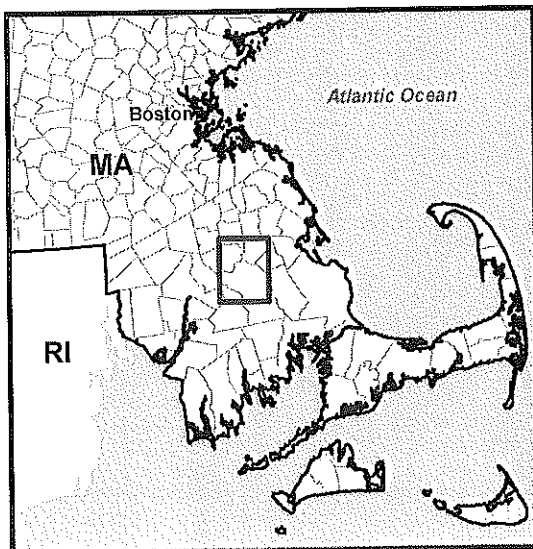
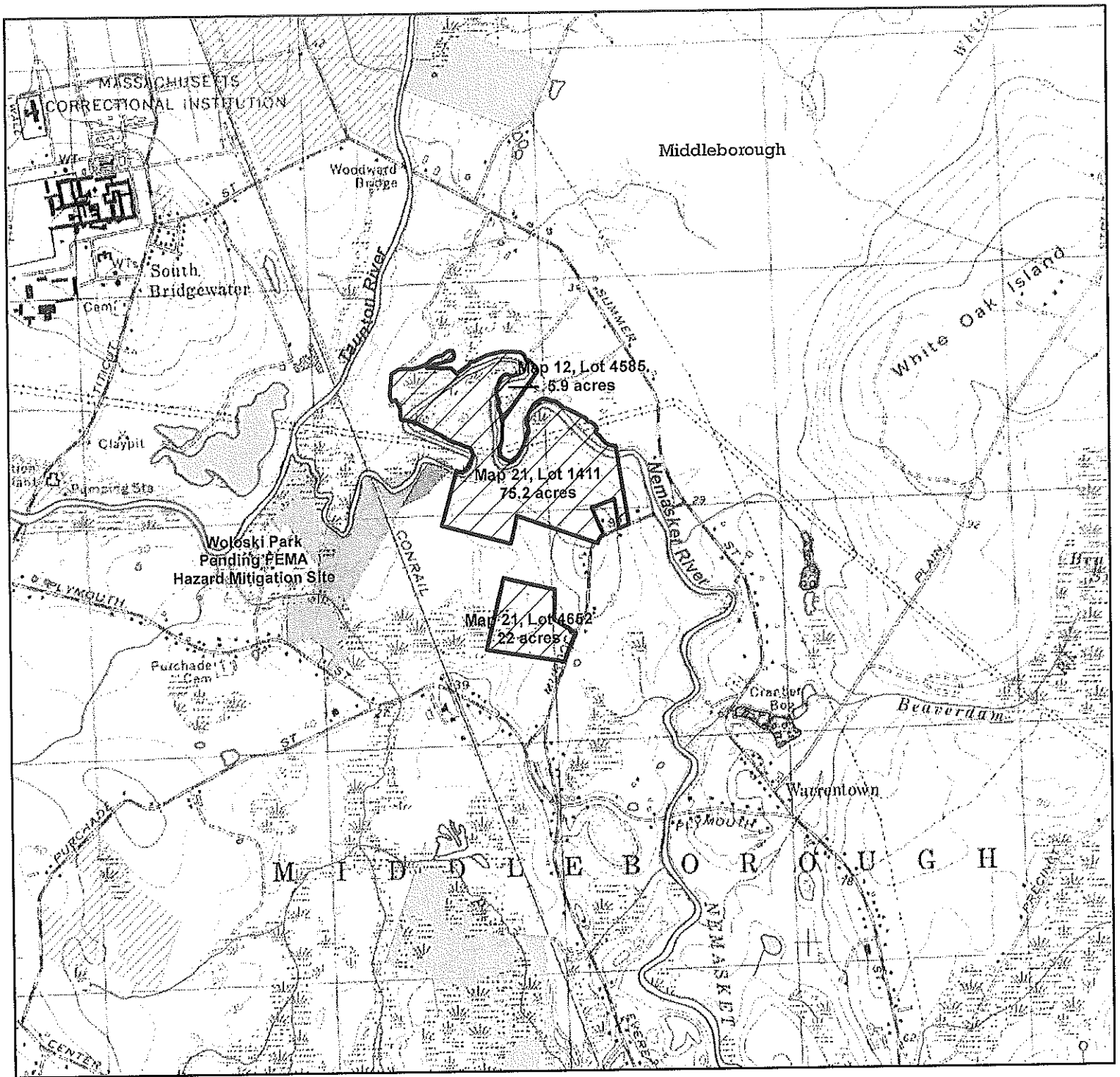
- *Increase the availability of all types of trails for recreation.* The project will provide access to a wide range of walking paths for all age and ability levels.
- *Increase the availability of water-based recreation.* The Property includes approximately one mile of frontage on the Nemasket River, and will therefore provide abundant opportunities for water-based recreational pursuits, including wildlife viewing, nature photography, fishing, waterfowl hunting, and kayaking and canoeing opportunities for more adventurous visitors. At present, there are very few locations along the lower Nemasket River corridor that are accessible to the public.
- *Invest in recreation and conservation areas that are close to home for short visits.* The project will establish a recreational resource that is currently lacking in the Town of Middleborough, which does not own a municipal conservation property with the same attributes as the subject. The Town center and environs, which contains a majority of the Town's population, is within approximately three miles of the subject property, and the 1000 plus resident Oak Point Senior Living development is within 3.5 miles. The project will therefore provide Middleborough residents with a variety of high-quality recreational experiences that won't require a lengthy automobile trip.

Relevance to Middleboro OSRP: The 2008 Town of Middleborough Open Space and Recreation Plan explicitly identifies the Nemasket River as a "Middleborough planning and conservation priority" (pg. 4) because "it is rich in archeological sites, historic sites, scenic vistas, wildlife habitat and recreational opportunity" (pg. 16). Among its wildlife habitat values is its herring fishery, "one of the most productive warm water fisheries in southeastern Massachusetts and part of what fisheries experts consider the region's most significant alewife run" (pg. 28). And in Section 8 of the OSRP, Goals and Objectives, on pgs. 43-44, priorities include "Manage and improve the Nemasket River ecosystem", and to "encourage recreational use of and on the river".

PROJECT SCHEDULE: *Issuance of RFR's for Due Diligence Tasks: Ongoing*
Submission of LAND Grant: 7/17/13
Execution of P+S with landowner: late July/early August 2013
DCS Site Visit: late summer 2013
Town Meeting Vote Approving Project: October 2013
Completion of Due Diligence Tasks: Fall 2013
LAND Grant Award Notification: late October/early November 2013
Closing: late 2013/early 2014
Completion of CPA CR: Early 2014
Opening of Property to the Public: Winter 2014

CONSISTENCY WITH PPA'S/PDA'S: The Property lies within a Priority Protection Area as depicted on the 2013 South Coast Rail planning maps. (See attached map created by SRPEDD)

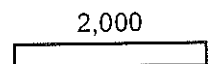
PLANS FOR USE OF LOCAL WOOD IN SIGNAGE, ETC: As stated previously, the Property is under active forest management. The Town is in a favorable position to work with the presiding forester on harvesting wood for use on site in the future.



Project Locus Map Lion's Head LAND Application Murdock Street, Middleborough, MA

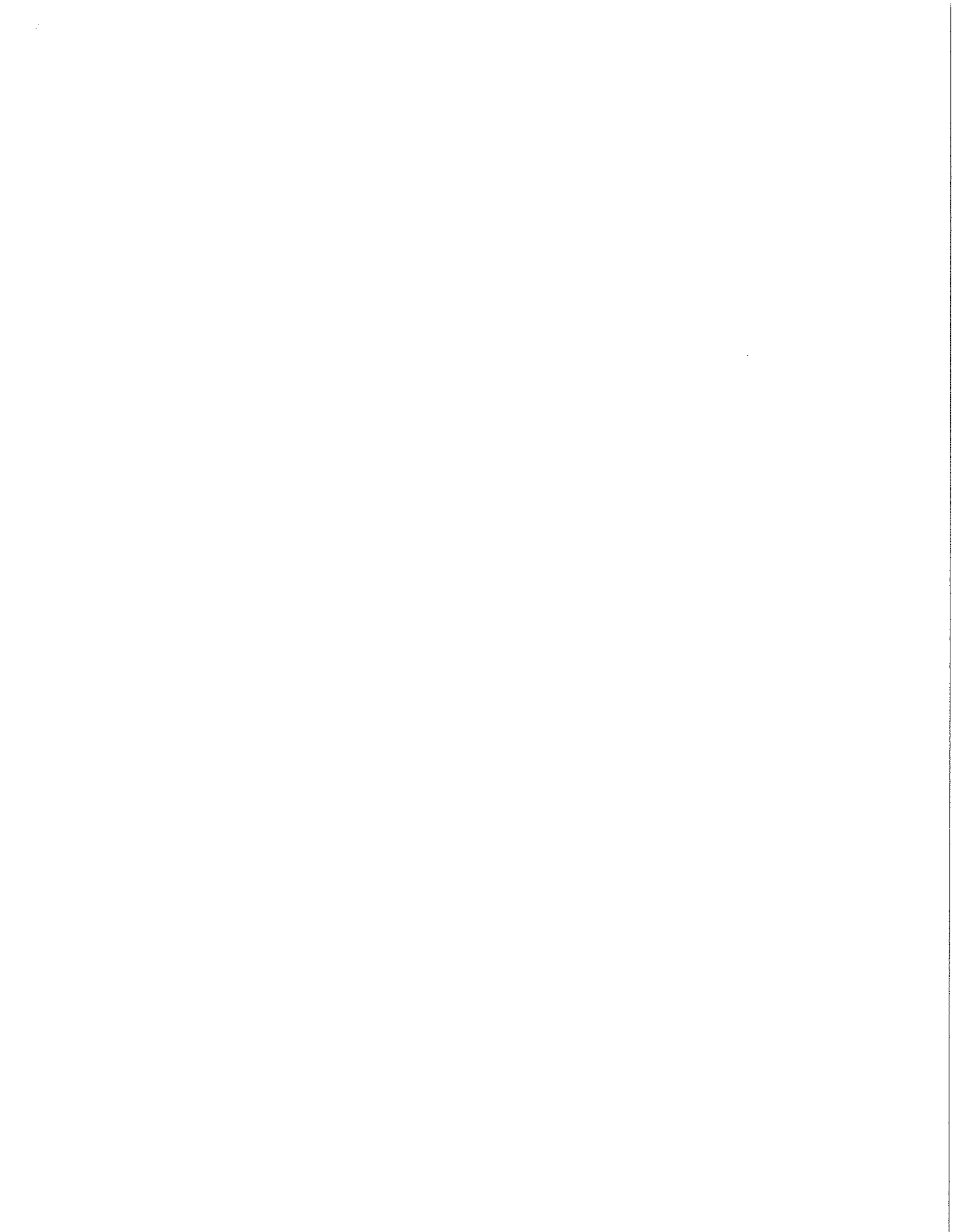
Legend

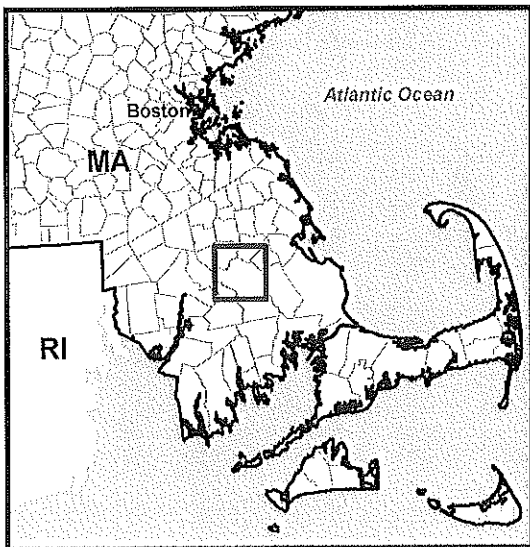
- Subject Property - 103 acres
- Town conservation parcel - 3.5 acres
- Department of Fish & Game - 30 acres
- Conservation Restriction
- State surplus to DFG (pending) - 37 acres



2,000
Feet






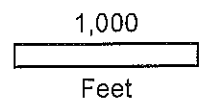


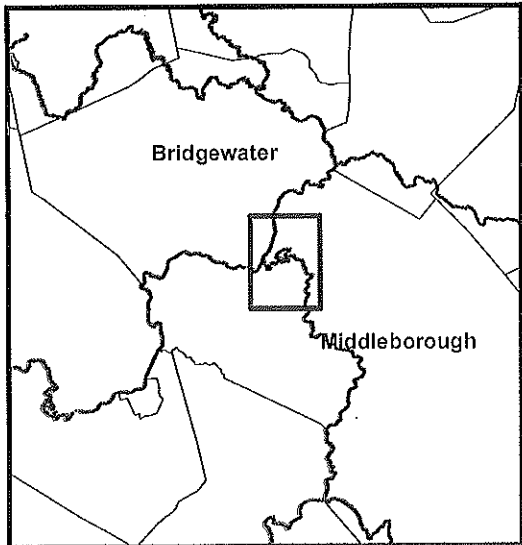
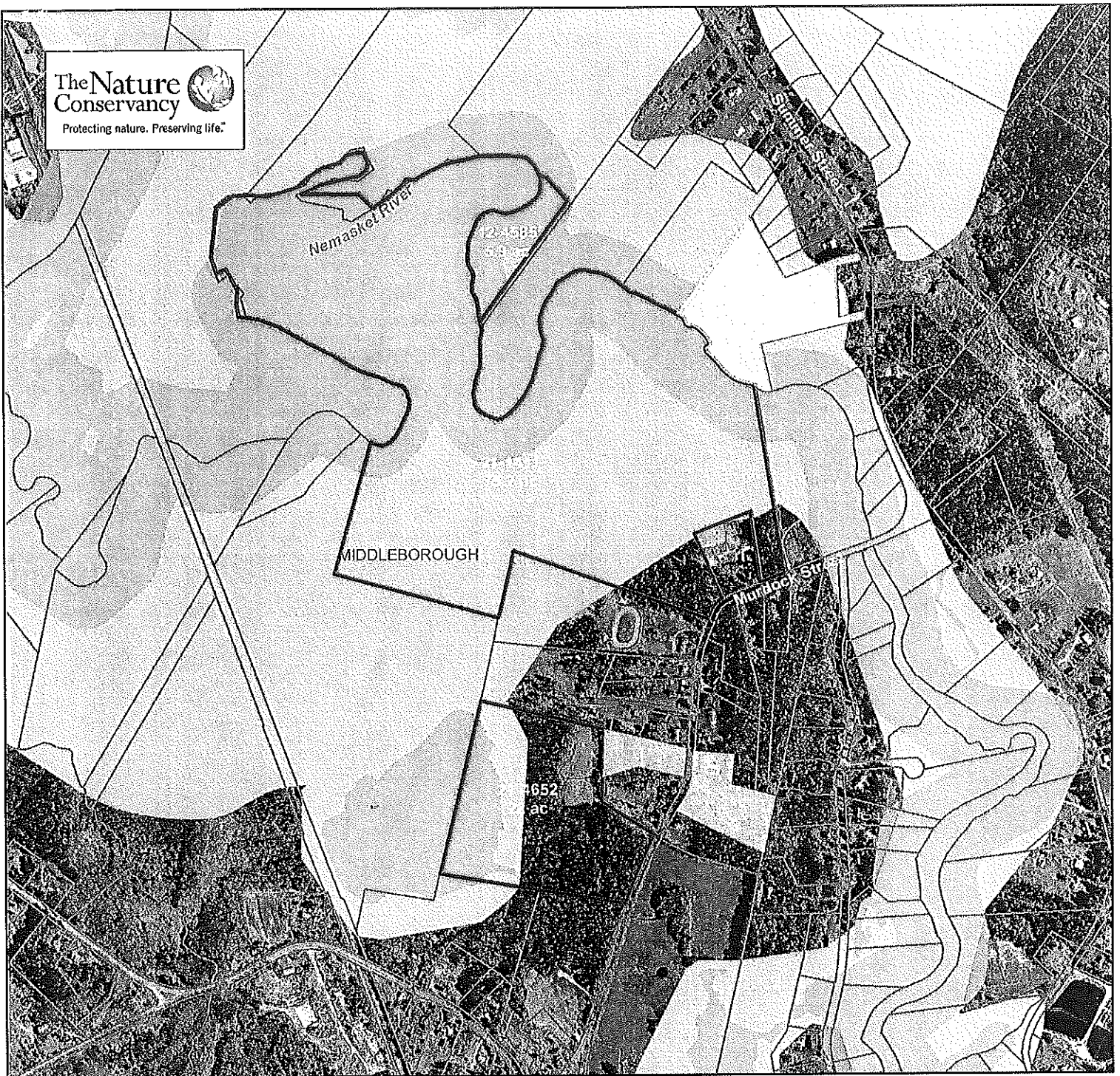


Project Boundary Map Lion's Head LAND Application Murdock Street, Middleborough, MA

Legend







-  Subject Property - 103 acres
-  Middleborough assessor's parcels
-  Powerline

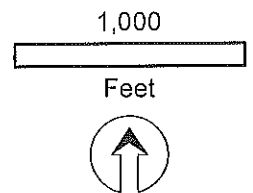




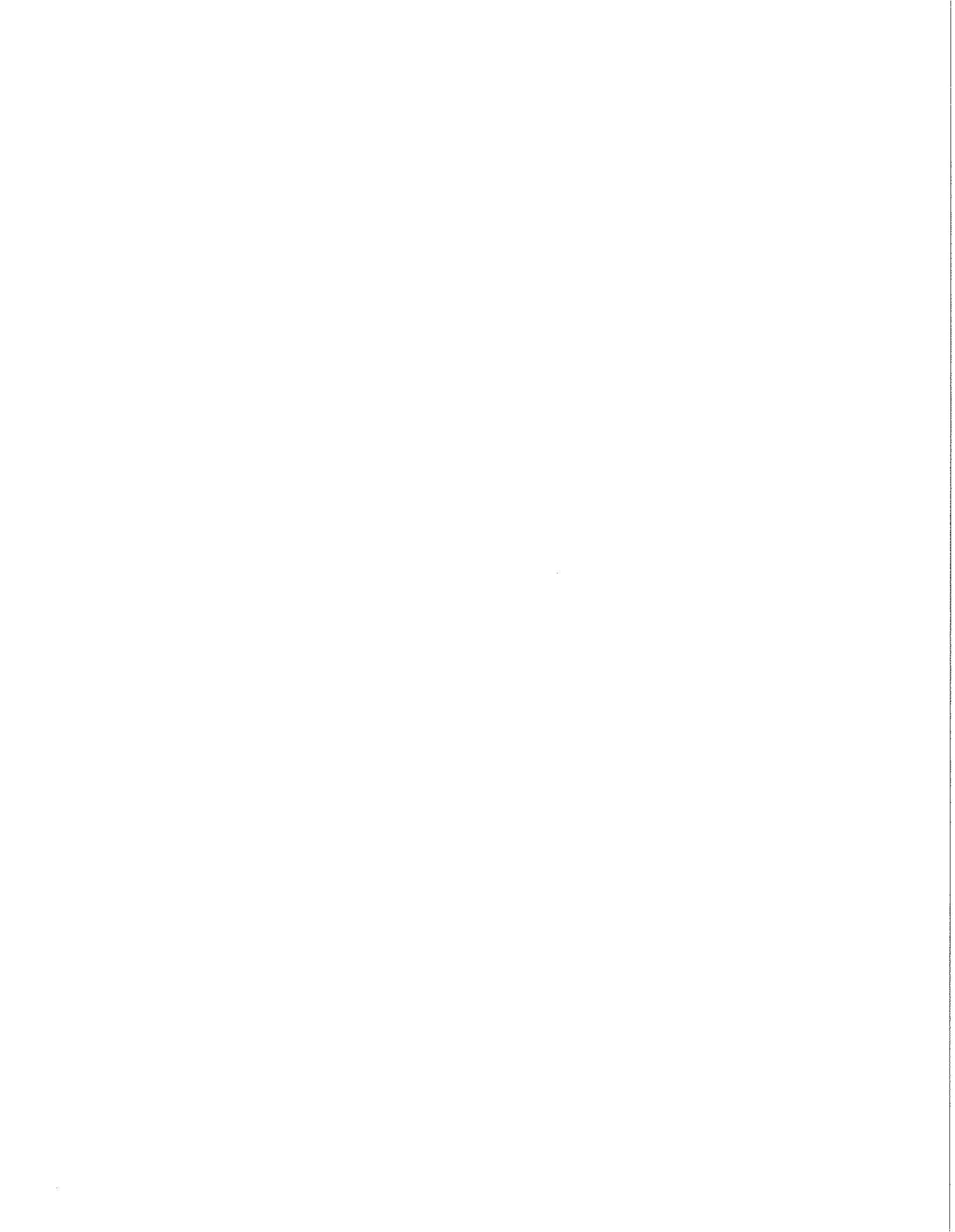
Land of Jigerjian - Middleborough, MA

Legend

-  Subject Parcels
-  Other land owned by Jigerjian
-  Middleborough assessor's parcels
-  Other land owned by Jigerjian
-  BM2_Core_habitat
-  BM2_Critical_natural_landscape













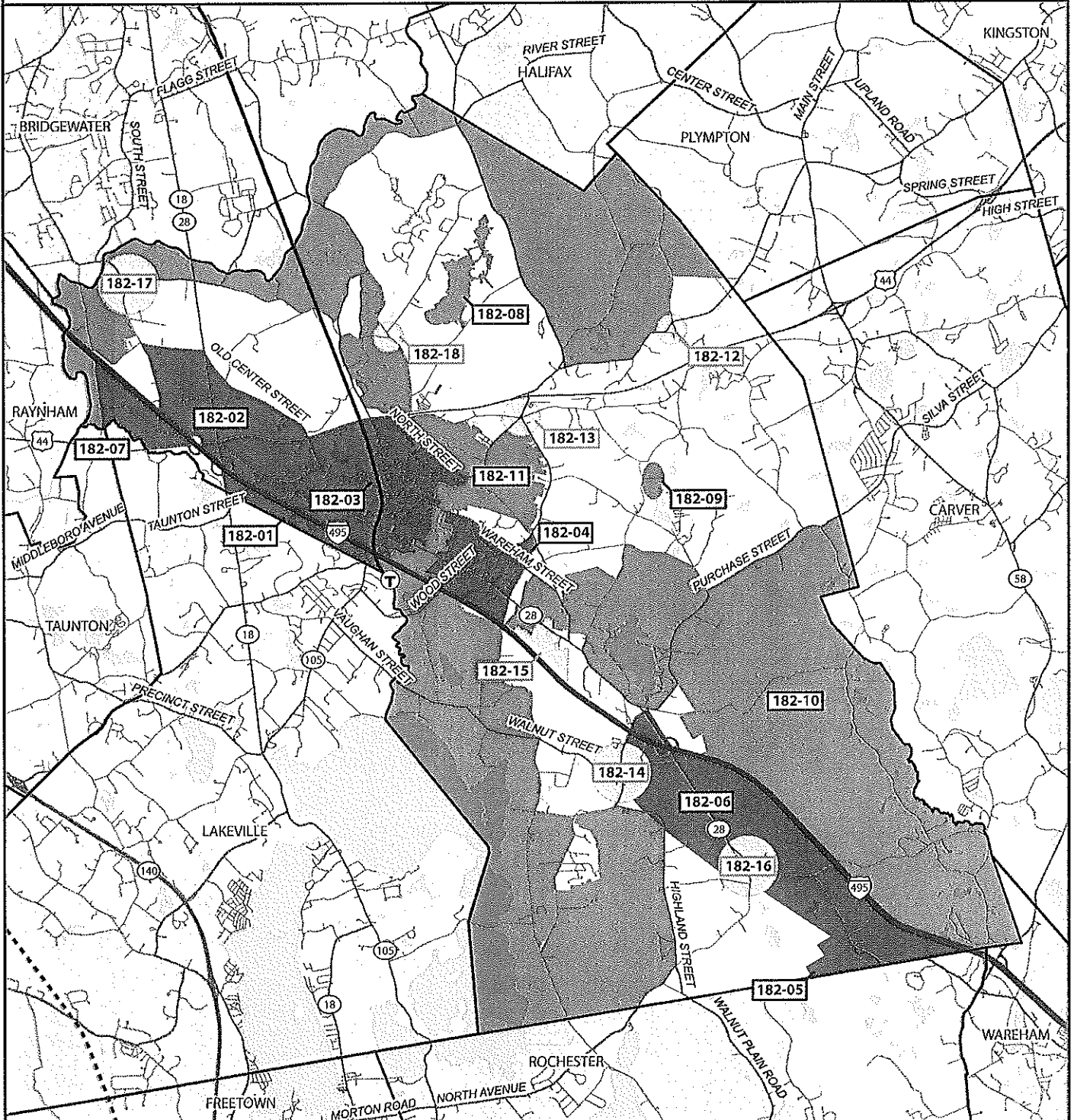
Sources: orthographic photography and assessor's parcels: MassGIS.



Town of Middleborough Community Priority Areas, 2013

This map is for the sole purpose of aiding regional planning decisions and is not warranted for any other use. June 2013

-  Priority Development Areas (PDAs)
-  Priority Protection Areas (PPAs)
-  Combined PDA/PPA
-  Interstates
-  Arterials and Collectors
-  Local Roads
-  MBTA Stations
-  MBTA Rail Lines
-  MBTA Proposed Rail Lines
-  Water





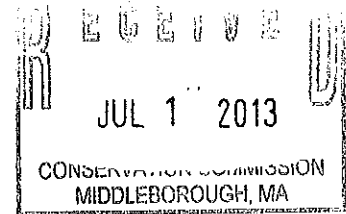


Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

June 28, 2013

Patricia Cassady
Middleborough Conservation Commission
20 Centre Street, 2nd Floor
Middleborough, MA 02346



RE: Town of Middleborough LAND proposal
Lion's Head project -- rare species information

Dear Ms. Cassady:

The Massachusetts Natural Heritage and Endangered Species Program (NHESP) supports the efforts of the Town of Middleborough to protect about 97 acres along the Nemasket River in Middleborough. Currently, the NHESP has documented habitat of two rare species listed under the Massachusetts Endangered Species Act (MESA) on or near the subject parcel: **Northern Red-bellied Cooter** (*Pseudemys rubriventris* pop. 1, Endangered, federally Endangered) and **Eastern Box Turtle** (*Terrapene carolina*, Special Concern).

While protection of the subject parcel may benefit rare species, it will also undoubtedly benefit some of the more common flora and fauna. Habitat fragmentation is a major threat to many wildlife, bird, and plant species and the protection of contiguous, undisturbed tracts of habitat is vital to ensuring their long-term viability.

Please do not hesitate to call me at 508-389-6351 if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn C. Harper".

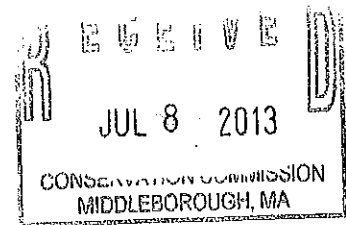
Lynn C. Harper
Habitat Protection Specialist
Massachusetts Natural Heritage & Endangered Species Program

www.nhesp.org



Natural Heritage & Endangered Species Program
100 Hartwell Street, Suite 230, West Boylston, MA 01583 Tel: (508) 389-6360 Fax: (508) 389-7890

Help Save Endangered Wildlife!
Contribute to the Natural Heritage & Endangered Species Fund.



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

July 2, 2013

Celia Riechel
LAND Grant Program Supervisor
Division of Conservation Services
Massachusetts Executive Office of Energy & Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Lion's Head Land Acquisition, Murdock Street, Middleborough, MA. MHC # RC.54467.

Dear Ms. Riechel:

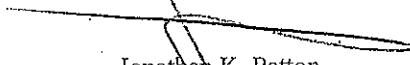
Staff of the Massachusetts Historical Commission have reviewed the Project Notification Form (PNF) submitted for the proposed land acquisition project referenced above. The project consists of the purchase of approximately 103 acres for conservation along the Nemasket River in Middleborough.

Review of the Inventory of Historic and Archaeological Assets of the Commonwealth determined that no historic or archaeological resources are recorded in the parcels proposed for acquisition. However, multiple ancient Native American archaeological sites are recorded in proximity within similar environmental settings. Undisturbed portions of the parcels are considered by the MHC to be highly archaeologically sensitive. This archaeological sensitivity is primarily due to environmental setting, with areas of level, well-drained soils in close proximity to wetlands and water resources associated with the junction of the Nemasket and Taunton Rivers, favorable for ancient Native American and historic period land use and occupation. The property is within a core area of ancient Native American settlement that has been occupied for many thousands of years, and the Nemasket River is documented as an important transportation corridor.

Acquisition of the parcels for conservation will assist to protect and preserve significant archaeological sites that may be present. If long-term preservation of the parcels are proposed through a Conservation Restriction (M.G.L. Chapter 184, sections 31-33), then MHC staff are willing to assist in review and comment on appropriate language for the preservation and protection of historic and archaeological resources within the parcels. The draft CR may be submitted to the MHC for review and comment when it becomes available.

These comments are offered to assist in compliance with Massachusetts General Law, Chapter 9, Sections 26-27C (950 CMR 71). Please contact me at this office if you have any questions or require additional information.

Sincerely,


Jonathan K. Patton
Archaeologist/Preservation Planner
Massachusetts Historical Commission

xc: Patricia Cassidy, Middleborough Conservation Commission
Irene DelBono, EEA-DCS
Middleborough Historical Commission

EXECUTIVE OFFICE OF ENERGY and ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES
100 Cambridge St., 9th fl.
Boston, MA 02114-2150
(617) 626-1011

For agency use only
DATE: _____
MUNICIPALITY (list all): _____
NUMERIC ASSIGNMENT(S): ____/____

CONSERVATION RESTRICTION APPLICATION FORM

Pursuant to the provisions of M.G.L. ch. 184. §32. the Executive Secretary of Energy and Environmental Affairs is hereby requested to approve a perpetual conservation restriction as described below:

A. GENERAL INFORMATION (please indicate contact person for CR review)

1. GRANTOR(S) (must list all owners)
Town of Middleborough (Name(s))
10 Nickerson Avenue, Middleborough, MA 02346 (Address)
508-946-2406 (Telephone & fax No.) Patricia Cassady (Contact Person)
2. GRANTEE(S): Wildlands Trust, Inc. (Name(s))
P.O. Box 2282, Duxbury, MA 02331 (Address)
781-934-9018 (Telephone & fax No.) Scott MacFaden (Contact Person)
3. ARE THERE ONE OR MORE MORTGAGES ON THE PROPERTY? Yes No
(Assent of mortgagee(s) is required and must be recorded with the restriction.)
4. IS THE RESTRICTION IN MORE THAN ONE MUNICIPALITY? Yes No
5. TYPE OF RESTRICTION:
a. Conservation Only:
b. Joint Restriction:
Type: _____
(agricultural, historical, watershed)
6. STATE OR FEDERAL FUNDS INVOLVED Yes No
 CPA (attach attested copy of town meeting vote(s) as an exhibit)
 Grant (type) (attach as an exhibit) Land Grant
 Other (attach)
 Is there a deadline for completing restriction (reason)? _____ 20__

NOTE: (A full package must be submitted for CR review, even if all or some of the materials were submitted as part of the grant process, as the grant programs are separate)

7. PUBLIC OFFICIALS: State Representative(s) Thomas J. Calter _____,
State Senator(s) Marc Pacheco _____, Other involved Official(s) _____

NOTES:

If the grantee is a non-profit charitable corporation or trust, DCS may require proof that it is a qualified charitable organization in accordance with M.G.L. c.180 §4(a) or (l) and the I.R.S. Code Section 501(c) (3) that qualifies as a M.G.L. c.184 §32 holder, and reserves the right to review the organization's by-laws and list of officers.

Regardless of whether the grantee is a qualified private non-profit organization or a city or town or commission, authority, or other instrumentality thereof, the local conservation commission must define the reasons for preserving the property and certify that the restriction is in the public interest (please refer to page 6).

A conservation restriction is a voluntary limitation on the use of land designed to preserve it from adverse future change. But it should be distinguished at the outset from an agricultural preservation restriction which is approved by the Commissioner of Food and Agriculture for the Commonwealth, 251 Causeway Street, Boston, MA 02114-2150, and from an historical preservation restriction, which is approved by the Massachusetts Historical Commission 80 Boylston Street, Rm. 310, Boston, MA 02116, and from a state watershed preservation restriction which is approved by the Commissioner of the Department of Conservation and Recreation, 251 Causeway St., Boston, MA 02114-2150.

It is possible for a restriction to fit into more than one category, requiring more than one approval. If this is a joint restriction, has the approval process been started with the joint holder, including the Commissioners of Food and Agriculture, DCR, the Massachusetts Historical Commission, etc.? Yes No N/A

8. GRANTOR'S INTENT

a. Charitable contribution: Yes No N/A
Do you intend to claim an IRS income tax deduction? Yes No N/A

b. Granted or required as part of municipal or state permitting process? Yes No

1. Is this restriction required by a M.G.L. C.40A §9 special permit? Yes No
(Please attach a copy of the permit(s) as an exhibit)

2. Required by M.G.L. C.131, §40 Wetlands Order of Conditions? Yes No
(Please attach a copy of the Order of Conditions)

3. Other? Yes No (please explain)

The CR is being granted in compliance with Section 12 of the Community Preservation Act

c.. Other: Please explain (for example, sale of a C.R. to a public agency):

d. Is this a perpetual restriction? Yes No If less than permanent, for how many years: _____
(It is the policy of DCS not to approve less than permanent restrictions except in exceptional circumstances. Please discuss the restriction with DCS before submitting a non-permanent CR)

B. PUBLIC BENEFIT

1. Is the restriction for the preservation of land areas for outdoor recreation by, or the education of, the general public (will there be public access)? Yes No

2. Is the restriction for the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems? Yes No

3. Is the restriction for the preservation of open space (including farmland and forest land) where such preservation is:

a. pursuant to a clearly delineated federal, state, local governmental policy, and will yield a significant public benefit? Yes No

b. for the scenic enjoyment of the general public and will yield a significant public benefit? Yes No

4. Is the property historically significant or meets National Register Criteria or is within a registered historic district or contributes to the integrity of an historic building or property? Yes No

5. Other public benefit? Yes No (if yes, please explain)

NOTES:

The Secretary will find sufficient evidence of the "public interest," if the applicant can show that the restriction meets any of the tests for deductibility under the Internal Revenue Service Code Section 170(h) and the Regulations promulgated thereunder, or a private letter ruling by the Internal Revenue Service shall be deemed sufficient for establishing such deductibility, or the applicant makes an independent showing of eligibility for deductibility. The letter ruling or documentation demonstrating eligibility for deductibility should be attached along with this application

Regardless of the intent of the grantor's gift, the Secretary's determination of public interest will be dependent upon how well the applicant demonstrates public interest; however, grantors should be advised that the Secretary reserves the right to require modifications to the conservation restriction where in his/her opinion the retained rights adversely impact the public interest or natural resource values of the property or when the document is improperly drafted.

C. SITE DATA

1. Location:
 1. Municipality Middleborough Street Location Murdock Street
 2. Grantor's Registry of Deeds Bk. # _____ Page # _____
 3. Assessors Map #21/12 Lot # 1411, 4652/4585
 4. New Site?: Yes Addition to existing restricted area: _____ (please specify)

2. Zoning: Commercial Industrial Residential (check all that apply)

3. Title: Does applicant have clear title? Yes No
 If no, please explain: The Town has not yet taken title to the premises. The town's acquisition is contingent upon receiving a LAND Grant.

4. Encumbrances: Is the property encumbered by any easement(s)? Yes No
 Is the property encumbered by any mortgages(s)? Yes No
 Please explain and attach copy of easement, mortgage subordination, etc.: An easement encompassing approximately 4 acres runs to New Bedford Gas and Edison Light Company (NSTAR) and the town.

5. Geographic Information (if restriction is located in 2 municipalities, fill out separate page for each):
 1. Total acres: 103.09 Acres covered by restriction: same Total unrestricted areas 0
 2. Cover: acres in A. Upland Forest 95 B. Open (field, pasture, etc.) _____
 C. Vegetated Wetland 8 D. Water 0.59 E. Other _____
 3. Topography: acres in A. Flat 103.09 B. Hilly _____
 C. Rolling _____ D. Mountains _____
 4. Water front: feet on A. Ocean _____ B. River 5,000
 C. Stream _____ D. Lake _____

Please identify waterbody Nemasket River

6. General information:
 Are there any improvements existing on the property, or to be permitted after execution of the

C.R.? Yes No If yes, please describe in detail:

IIIB (1): Construction of improvements incidental to public access

IIIB(3): Construction and maintenance of trails

IIIB(8): Construction of fences

There are no improvements currently existing on the premises.

7. Is the property currently under any of the preferential real estate tax assessment programs?

Yes No If yes, which one: c.61 c.61A c. 61B

NOTE:

If the restriction lies in more than one community, separate Site Data forms, Selectmen and Conservation Commission approvals must be completed for that portion of the restriction within each community

8. If the property is under agricultural use, is the soil considered prime or of statewide agricultural significance?

Yes No (If yes, USDA Soil Conservation Service data must be provided) N/A

9. Is the property adjacent to any public or quasi-public land or buildings? Yes No

Describe briefly: The Town owns a parcel adjacent to the southwestern portion of the premises and Mass. DFG has several holdings to the west near the Taunton/Nemasket River confluence.

10. Does the property lie within an historic district, include an archaeological or rare species site, fall within a Department of Conservation and Recreation designated scenic landscape, river, or within an Executive Office of Energy and Environmental Affairs designated Area of Critical Environmental Concern, a Zone II of a public water supply etc.? Please explain:

The Premises include extensive frontage on the Nemasket River, a tributary to the Taunton River (A Federally Designated Wild and Scenic River). The Premises are within NHESP Biomap Core Habitat, Critical Natural Landscape, Priority Habitat for Rare Wildlife, and Estimated Habitat for Rare Species.

11. Will public access be allowed? Yes No If yes, explain any limitations, type, etc.:

The Premises will be open to the public for passive recreation, including hiking, nature study, and fishing. Motorized recreation will not be permitted.

Prepared by: Scott MacFaden _____

Address: P.O. Box 2282 _____

Duxbury, MA 02331 _____

781-934-9018, 781-934-8110 _____
(telephone number, fax number if comments are to be sent to preparer)

ATTACHMENTS:

- | | | | | |
|----|---|------------------------------|---|--|
| a. | Draft Conservation Restriction (required) | | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. | USGS Topographic map with conservation restriction outlined and identified thereon (required) | | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. | Survey, plotmap, or sketch plan (required) <u>Survey pending</u> | | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| d. | Natural resource inventory, (if available) | | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| e. | Wetlands Order of Conditions C.131.§40, (if applicable) | N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. | Zoning, C. 40A, §9 Special Permit, etc. (if applicable) | N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| g. | I.R.S. letter ruling, (if applicable & not previously provided) | N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| h. | Charitable status documentation,(if applicable & not previously provided) | <input type="checkbox"/> Yes | N/A | <input type="checkbox"/> No |
| i. | Assent of mortgagee(s) (if applicable) | N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| j. | USDA Soil Data, (if applicable) | N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| k. | Other (please specify) (court orders, settlement agreements, votes, grant agreement, contracts, etc.) | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

NOTES:

The applicant is highly advised to follow the Model Conservation Restriction and submit a draft of the conservation restriction for a determination as to whether it is acceptable for approval by the Secretary. All required attachments must be submitted for review.

The final conservation restriction must be prepared in a form suitable for recording and be approved and signed by the grantor, grantee, and municipal official(s), have all final Exhibits attached, and a subordination, if applicable, to be recorded prior to the conservation restriction.

Please check your local Registry of Deeds for their requirements, particularly as to first page spacing.

MUNICIPAL CERTIFICATION

(We) the undersigned Conservation Commission of _____ (the certifier/holder) hereby certify that the proposed conservation restriction is in the public interest in that it (describe public benefit):

Date: _____

Signed:

NOTES:

This certification by the conservation commission may be submitted separately from the application and filed with the submission of the executed conservation restriction, it being recognized that the applicant may want to submit the application with a draft copy of the conservation restriction for review prior to actual submission of the executed document.

Conservation restriction lands which overlap municipal boundaries must be approved and certified by the appropriate officials of both municipalities.

The commissioners' certification should state why the property is significant and why the conservation restriction is important.

APPENDIX C

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES
100 Cambridge Street, 9th Floor
Boston, MA 02114
(617) 626-1011

DATE: _____
MUNICIPALITY: _____
NUMERIC ASSIGNMENT: _____

CONSERVATION RESTRICTION FIELD INSPECTION

1. MUNICIPALITY: _____ LOCATION (street,road,etc): _____

2. GRANTOR: _____ GRANTEE: _____

3. NEW SITE: _____ ADDITION TO SITE: _____ TOTAL ACRES: _____ TERM: _____

4. ARE BUILDINGS INCLUDED? YES NO
If yes, estimate value, condition, and existing or proposed use. (include photographs and negatives)

5. PRESENT AND PAST USE OF SUBJECT PROPERTY AND ADJACENT LANDS:
(please include USGS topographical maps showing subject and adjacent public lands, if any)

6. BRIEF DESCRIPTION OF PROPERTY INCLUDING NATURAL RESOURCES AND ANY UNIQUE FEATURES:

- a. Are prohibited activities sufficient to protect the resource values? Yes No
- b. Are retained uses compatible with the preservation or protection of the natural resources?
 Yes No (if answers to 6a or 6b are no, please explain in 8 below)

7. ARE PUBLIC ACTIVITIES PERMITTED? Yes No
If yes, please explain NATURE and SCOPE: _____

8. COMMENTS AND RECOMMENDATIONS: _____

INSPECTOR _____ DATE: _____
ACCOMPANIED BY: _____

APPENDIX D

PLANS, POLICIES, PROGRAMS, AND LANDS HELPFUL IN DEMONSTRATING STATE AND LOCAL PUBLIC BENEFIT

1. Municipal Open Space and Recreation Plans
2. Regional Open Space Plans (Regional Planning Authorities)
3. Statewide Comprehensive Outdoor Recreation Plan
 - * State Trail System
 - * Scenic Rivers Program
 - * Unique Geological Inventory
 - * Bay Circuit Program
4. Massachusetts Natural Heritage Inventory of Rare and Endangered Botanical and Zoological Species Habitat and National Endangered Species Act
5. Areas of Critical Environmental Concern - designated areas
6. Coastal Zone Management Plan - Significant Resource Areas
 - * Barrier Beaches
 - * Primary Dunes
 - * Sandy Beaches
 - * Saltwater Marshes
 - * Shellfish Beds
 - * Salt Ponds
 - * Estuaries
 - * Coastal Embayments
 - * Anadromous Fish Runs
 - * Erosion Areas
 - * Designated Ports
 - * Accretion Areas
 - * View Points
 - * Historic Sites (also on Massachusetts Historical Commission inventory)
 - * Recreational Beaches
 - * Boat Ramps, Marinas
7. Massachusetts Historical Commission
 - * Massachusetts Historical Sites
 - * National Historic Register Sites (P.L. 89-665), eligible for inclusion
 - * Known Cultural and Archeological Sites
8. Scenic roads, Chapter 40, §15C
9. Scenic Mountains, Chapter 131, §39A
10. Historic Districts
11. Flood Disaster Protection Act of 1973, land within flood lines. See also P.L. 566 Small Watershed Projects.
12. USDA Soil Conservation Service (SCS) - various inventories of potential reservoir sites
13. Massachusetts Water Resources Commission - inventory of regionally important wetlands, (identified in Massachusetts Water Supply Statement May 2, 1978, 353 pp.)
14. National Natural Landmarks (i.e. Gay Head Cliffs, Lynnfield Marsh)
15. Town well-fields (existing and proven reserves and reservoirs)
16. Agricultural land - SCS identified prime, Massachusetts unique
17. Wetlands Restrictions Program

- * Chapter 131, §40
- * Chapter 130, §105
- * Restricted areas and areas to be restricted

18. Executive Orders
 - * #181 Barrier Beaches
 - * #193 Agricultural lands
19. Department of Environmental Protection Great Pond Inventory
20. Department of Environmental Management Scenic Landscape Inventory, 1982
21. Department of Environmental Protection Water Quality Plans or Programs, various
22. Buffers to water bodies, other protected lands, ACECs, critical habitat, parks, etc.
23. Greenways, trails, and wildlife corridor connections
24. Public access for passive recreation

APPENDIX E

Recommendations to Increase the Reliability of Grantees as Conservation Restriction Managers¹

1. Conservation Restriction programs should have written criteria for what constitutes a satisfactory restriction.
2. Background data assembled should be adequate to support proper monitoring and legal enforcement action.
3. Organizations and agencies holding conservation restrictions should make every reasonable effort to ensure that they will have a reliable source of funds for monitoring and enforcement actions, including court cases.
4. Properties protected by conservation restrictions should be checked at least annually.
5. Careful records should be kept of inspections and of all contacts with landowners.
6. Monitoring programs should be designed and managed so that violations will be detected early before elimination of the violation becomes a practical impossibility.
7. Organizations and agencies holding conservation restrictions should keep track of changes in ownership of restriction - protected properties.
8. Organizations and agencies holding conservation restrictions should frequently remind landowners about the terms of conservation restrictions, especially after a property changes hands.
9. Organizations and agencies holding conservation restrictions should establish careful procedures for reviewing possible amendments to ensure that any permitted amendment does not impair the conservation values of the restriction.
10. In the case of donated conservation restrictions for which tax deductions have been taken, donees should seek competent appraisal advice to satisfy themselves that a permitted amendment will not add value to the property.
11. Organizations and agencies holding restrictions should maintain careful written records of all discussions and correspondence relating to an amendment in case of questions later.
12. Termination should be viewed as an absolute last resort and only done after exhaustive consideration has demonstrated overriding public need for the termination.
13. In any situation where the primary grantee's long term commitment and/or financial resources for monitoring and enforcement are open to reasonable question, the landowner and primary grantee should make every reasonable effort to find a suitable back-up grantee.

¹ Land Trust Ex

(Appendix F)
Executive Office of Energy and Environmental Affairs / Division of Conservation Services
GIS Data Entry Form

Local Acquisitions for Natural Diversity (LAND) (formerly Selp-Help), Parkland Acquisitions and Renovations for Communities (PARC) (formerly Urban Self-Help), SURF, Land & Water Conservation Fund Projects and Conservation Restrictions

1. Contact Person: _____

(telephone) _____

2. Project Type (select one):
 LAND
 PARC
 SURF
 Land & Water Conservation Fund
 Other _____

3. Municipality(ies): _____ Project Number _____

4. a. Fee Owner: _____ (Holder of the Deed)
b. Manager (if different from Owner): _____

5. *Conservation Restriction held by: _____
*Complete only if land is encumbered by a Chapter 184 section 31-33 Conservation Restriction.
Check the box corresponding to how the restriction was obtained:
 Gifted Purchased Exacted by Regulation or given as part of permit process
Number of reserved lots within the restriction, if any: _____

6. Assessor's Information _____ (map) _____ (Block) _____ (lot)

7. Registry Information _____ (name)
_____ (book) _____ (page) _____ (plan) _____ (page)

8. Acreage: _____

9. Primary Use: (select one)
 Conservation
 Recreation
 Both Conservation and Recreation
 Water Supply Protection
 Agriculture
 Historic/Cultural
 Other (please explain) _____

Public Access:
 Public
 Public, limited (explain) _____
 Public, seasonal
 None
 Other (please explain) _____

The applicant must provide to the Executive Office of Energy & Environmental Affairs materials that will allow MassGIS to accurately represent the site in the state's open space data layer. These materials include:

1. A USGS topological map or copy (including the name & date of the quad) with the site accurately drawn on it.
2. A copy of the site plan and/or a survey plan if available (required for exacted conservation restrictions).
3. A printout of the digital representation of the site on a USGS topological map background and a note indicating that the digital representation of the site has been emailed to Dominique.pahlavan@state.ma.us in appropriate format (Massachusetts State Plane Meters NAD1983 Datum) with a subject line of: <town> <Project Type> <Project#> (e.g. Boston CR #12).

MassGIS will attempt to add the site to the open space data layer using these materials but may request additional material from the grantee if the materials provided are not at an appropriate scale or are not sufficiently clear to support conversion to digital data that conform to MassGIS data standards. Topographical maps can be purchased at book stores or printed from <http://www.mass.gov/mgis/mapping.htm>. Please call Dominique Pahlavan at MassGIS, 617.626.1184, with any questions or for assistance with this form.

**TOWN OF MIDDLEBOROUGH
CONSERVATION RESTRICTION
UNDER THE COMMUNITY PRESERVATION ACT**

**JIGERJIAN/LIONS HEAD CONSERVATION RESTRICTION
MIDDLEBOROUGH CR #**

I. GRANTOR CLAUSE:

The TOWN OF MIDDLEBOROUGH, a municipal corporation with an address of 10 Nickerson Avenue, Middleborough, Massachusetts 02346, acting by and through its duly authorized Board of Selectmen, for its successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the General Laws, for consideration of One Dollar (\$1.00), paid, grants, with Quitclaim Covenants, to WILDLANDS TRUST INC., a Massachusetts non-profit corporation with an address at Post Office Box 2282, Duxbury, Massachusetts 02331, and to its successors and permitted assigns ("Grantee") in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction on three parcels of land located off of Murdock Street in the Town of Middleborough, Massachusetts, consisting of approximately 103 acres, said parcels being described in Exhibit "A" hereto attached (the Premises") and more particularly shown on a plan of land entitled "

_____ a copy of which is attached as Exhibit "B". For Grantor's title, see Deed recorded with the Plymouth County Registry of Deeds at Book _____, Page _____. The Grantee is a tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code, whose primary purpose is the preservation, protection or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition.

II. PURPOSES:

The Town of Middleborough, at a duly called Town Meeting held on October ____, 2013, while acting on Article _____ of the Warrant, voted to authorize the Board of Selectmen to acquire the Premises for preservation, open space, conservation and passive recreation purposes, and to utilize Community Preservation Act (Ch. 293 of the Acts of 1998, as amended) funds for the purposes of the Article and to grant a Conservation Restriction on the Premises to Wildlands Trust, Inc. An attested copy of said Town Meeting Vote is attached hereto as Exhibit "C." Pursuant to the Vote under Article _____ of the October _____, 2013, Town Meeting, and in accordance with Section 12 of the Community Preservation Act, the Grantor is hereby granting a Conservation Restriction on the Premises to the Grantee.

The Grantor intends that this Conservation Restriction will assure that, while permitting uses described in Section III below, the Premises will be retained forever predominately in its natural, scenic, forested and open space condition consistent with land held by the Middleborough Conservation Commission for uses and activities consistent with the

promotion and development of the natural resources and for the protection of watershed resources. Further, that this Conservation Restriction will preserve and protect in perpetuity the wildlife, aesthetic, agricultural, ecological and environmental values of the Premises.

The Premises, comprised of approximately 103.09 acres, contains unusual, unique or outstanding qualities, the protection of which in their predominately natural or open condition will be of benefit to the public. The conservation values protected by the terms of this Conservation Restriction include the following:

- A. Protection of Riparian Corridors On a Wild and Scenic River Tributary. The Premises include extensive frontage on the Nemasket River, an important Taunton River tributary. The Taunton River is a National Wild and Scenic River under PL 90-542.
- B. Creation of an expanded assemblage of protected conservation lands. The Premises directly abut a parcel under the care and custody of the Middleborough Conservation Commission, are proximate to multiple parcels owned by or to be transferred to the Massachusetts Division of Fish and Game ("DFG"), and is within an area near the confluence of the Nemasket and Taunton Rivers that is a high priority for future conservation efforts on the part of the Grantor/Town, DFG, Grantee/Wildlands Trust, The Nature Conservancy, and others.
- C. Preservation of Important Wildlife Habitat. The Premises are situated within an area identified by the Commonwealth of Massachusetts' Natural Heritage and Endangered Species Program ("NHESP") BioMap Project as documented habitat for two rare species, the Northern Red-Bellied Cooter (*Pseudemys rubriventris* pop. 1, Endangered, federally Endangered) and Eastern Box Turtle (*Terrapene carolina*, Special Concern). The Premises are also situated partially within NHESP-designated BioMap "Core Habitat", "Critical Natural Landscape", "Estimated Habitat for Rare Species", and "Priority Habitat for Rare Wildlife" areas. Lands so identified support the best remaining examples of biodiversity in the Commonwealth, and represent high priorities for preservation. The Premises also includes several "Potential Vernal Pools" as identified by NHESP.
- D. Preservation and enhancement of public recreational opportunities. The Premises will be publicly accessible for passive, non-motorized recreational activities, to include hiking, nature study, cross-country skiing, fishing, and non-motorized boating. It includes an extensive system of woods roads that are well-suited for said passive recreational activities.
- E. Congruence with Municipal Policy Goals: The protection of the Premises is consistent with several of the goals and objectives in Section VIII, Pgs. 43 - 46 of the 2008 Town of Middleborough Open Space and Recreation Plan, including , "Manage and improve the Nemasket River ecosystem, Explore the possibilities of creating a Nemasket/Taunton River Corridor designation, Preserve the rural character of the community, Protect and maintain the abundant diversity of natural and rare habitats in Middleborough, Support

continued viability of agriculture and forest land management, Continue to work on protecting land along the Taunton and Nemasket Rivers, and Research the implementation of Timber Stand Improvements (TSI) on town owned forested lands.”

- F. Scenic Vistas: The Premises provide scenic vistas from Murdock Street, a public way in the Town of Middleborough, and from the Nemasket River, a navigable waterway accessible to recreational boaters.
- G. Prevention of development or use of the Premises for any Purposes except as elsewhere herein allowed.

The specific Conservation Values of the Premises are documented in an inventory of relevant features of the Premises, acknowledged by the signatures of Grantor and Grantee, and to be filed at the offices of Grantee, said inventory consisting of reports, maps, photographs, and other documentation (hereinafter referred to as "Baseline Documentation"), which the parties agree provide an accurate representation of the Premises at the time of this conveyance and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Conservation Restriction.

III. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES:

A. Prohibited Acts and Uses: Subject to the exceptions set forth in Paragraph B, "Reserved Rights and Responsibilities of the Grantor", and Section V, "Access", below, the Grantor will neither perform nor allow the following acts and uses which are prohibited on, above and below the Premises:

1. Constructing or placing of any temporary or permanent building, tennis courts or athletic fields, landing strip, mobile home, swimming pool, billboard or other advertising display, antenna, tower, or other temporary or permanent structure or facility on, below or above the Premises, except as provided in Paragraph B below;
2. Mining, excavating, dredging or removing from the Premises soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit, except as provided in Paragraph B below;
3. Placing, filling, storing or dumping on the Premises of refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks;
4. The storage, dumping or other disposal of toxic and/or hazardous materials or of non-compostable refuse on the Premises, except as provided in Paragraph B below;
5. The operation of snowmobiles, motorcycles, all-terrain vehicles, off road vehicles or other recreational vehicles, except as provided in Paragraph B below;

6. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, historic preservation, wildlife habitat or aquatic communities;
7. Subdivision of the Premises for any purpose; no portion of the Premises may be used toward building requirements on this or any other parcel.
8. Any other act, activity or use of the Premises which may materially impair the conservation interests that are the subject of this Conservation Restriction.

B. Reserved Rights and Responsibilities of the Grantor: The following acts, activities and uses otherwise prohibited in Paragraph A above are reserved by the Grantor, and such acts, activities and uses by the Grantor are expressly permitted, but only if such acts, activities or uses do not materially impair the interests protected by this Conservation Restriction. They are:

1. With prior approval of the Grantee, which approval shall not be unreasonably withheld, structures and improvements incidental to the use of the Premises for conservation and passive outdoor recreation purposes may be constructed and maintained, including but not limited to, restroom facilities; an information kiosk; benches; parking areas; trails, including handicapped accessible trails; bridges and boardwalks; and water and utility lines thereto, providing they are underground and solely for use on the Premises.
2. Use of motorized vehicles as necessary solely for the purpose of property maintenance, restoration, monitoring and enforcement activities pursuant to the Conservation Restriction or other reserved rights, or as required by police, fire prevention personnel or other government agencies carrying out their lawful duties.
3. With prior notification to Grantee, the construction, maintenance, and marking of trails for pedestrian use.
4. Erection of signs by the Grantor or Grantee identifying the Grantee as holder of the Conservation Restriction and to educate the public about the conservation values protected and any limitations relating to public access.
5. Uses and activities consistent with the promotion and development of the natural resources and for the protection of watershed resources..
6. With prior written approval of the Grantee and the Massachusetts Natural Heritage and Endangered Species Program, measures designed to restore native biotic communities including but not limited to aquatic wildlife, or to maintain, enhance, or restore wildlife, wildlife habitat, or rare or endangered species.
7. Use for passive recreational activities, including but not limited to, walking, hiking, cross-country skiing, snow shoeing, bird watching, and nature study.

8. The placing of sight-pervious fences that do not interfere with the passage of wildlife and that are reasonably required by Grantor for any permissible use of the Premises and that do not interfere with the conservation purposes of this Conservation Restriction.
9. Subject to the approval of the Grantee, which approval shall not be unreasonably withheld, management of natural plant communities and selective cutting of trees for fire protection, trail maintenance, tick control, or otherwise to preserve the present condition of the Premises, or to provide for vistas.
10. Woodland operations carried out in accordance with sound forest management practices (including the harvesting of timber). Forest management practices shall be in accordance with a Forest Management Plan prepared by a professional forester and approved by the Massachusetts Department of Conservation and Recreation or its successor agencies. A copy of said Forest Management Plan shall be provided by the Grantor to the Grantee. The person, firm or corporation harvesting timber according to said Management Plan shall be licensed under M.G.L. Chapter 132, Section 46.
11. With prior notification to the Grantee, the conduct of archeological activities, including, without limitation, survey, excavation, and artifact retrieval, following submission of an archeological field investigation plan by the Grantor and its approval in writing by the State Archeologist of the Massachusetts Historical Commission or appropriate successor official (M.G.L. Ch. 9, Section 27C, 950 CMR 70.00).

All acts and uses not prohibited by subparagraphs A and B are permissible.

C. Notice of Intention to Exercise Reserved Rights and Certain Permitted Acts and Uses. The Grantor shall give prior written notice to Grantee in advance of undertaking any activities referred to in III.B. (3) above, and receive prior written approval from the Grantee in advance of undertaking any activities referred to in III.B. (1), (6) and (9) above. Such approval shall not be unreasonably withheld. The purpose of requiring the Grantor to notify the Grantee and receive approval from the Grantee prior to undertaking certain permitted activities is to afford the Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purposes of this Conservation Restriction. Whenever notice is required, the Grantor shall notify the Grantee in writing not less than 60 days prior to the date the Grantor intends to undertake the activity in question. Notice must be made in writing, by hand delivery or Certified Mail (return receipt requested) to Wildlands Trust Inc., PO Box 2282, Duxbury, MA 02331. The notice shall describe the nature, scope, design, location, timetable, and any other material aspects of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. If Grantee's approval is required, this judgment shall be rendered within 60 days of the receipt of a complete notice. If no response is delivered to the Grantor within sixty (60) days of receipt of said notice, then it is deemed that Grantee approved of such activity. Normal maintenance activities, including but not limited to the mowing of fields and the selective cutting and planting of trees, shall not require notice or approval of the Grantee.

IV. LEGAL REMEDIES:

A. Legal and Injunctive Relief: The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee and the Grantor.

If the Grantee finds that the Grantor is causing or permitting a violation of this Restriction, the Grantee shall immediately notify the Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall either (a) immediately cease the activity constituting the violation and promptly restore the property to its condition prior to the violation to the reasonable satisfaction of Grantee or (b) immediately cease the activity and provide a written explanation to Grantee of the reason why the alleged violation should be permitted.

If the condition described in clause (b) above occurs, both parties agree to attempt to resolve the dispute in accordance with the Dispute Resolution provisions of Section IV (F) below.

B. Reimbursement of Costs of Enforcement: The Grantor, and thereafter the successors and assigns of the Grantor covenant and agree to reimburse the Grantee to the extent permitted by operation of law for all reasonable costs and expenses (including without limitation counsel fees) incurred in enforcing this Conservation Restriction or in remedying or abating any violation thereof. Any enforcement action will not be undertaken until the parties have completed dispute resolution procedures set forth in Section IV (F) below.

C. Grantee Disclaimer of Liability: By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises as of the date of this restriction.

D. Severability Clause: If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

E. Non-Waiver: Any election by the Grantee or the Grantor 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.

F. Dispute Resolution: Either party may, at any time, call a meeting for the purpose of resolving disputes or problems arising under this Conservation Restriction. Each party shall make every reasonable effort to resolve problems or disputes to the satisfaction of both parties. Notwithstanding the foregoing, in the event of a dispute pursuant to this Conservation Restriction, the parties agree that prior to pursuing other available remedies, but excluding the giving of notices of default by the other party; they will attempt to negotiate resolution of their dispute directly with each other. If negotiation is unsuccessful, they agree to participate in at least three hours of mediation to be facilitated by a mediator mutually acceptable to them and under the mediation

procedures set by the mediator. If no such mutually acceptable mediator is agreed upon, the Real Estate Bar Association for Massachusetts or its successor shall be requested to designate such a mediator. The mediation session shall be conducted within thirty days of the date on which a mediator receives the request and agrees to mediate. The cost of such mediation shall be shared equally by the parties.

G. Acts Beyond Grantor's Control: Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring action against the Grantor for any injury to or change in the Restricted Premises resulting from causes beyond the Grantor's control, including but not limited to, fire, flood, storm, 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.

V. ACCESS

A. It is the intention of the parties hereto that the general public may enter upon the Premises for passive, outdoor recreational and educational uses and activities which are consistent with the promotion and development of the natural resources and for the protection of the watershed resources. It is also the intention of the parties that any public use which is permitted by the terms of this Conservation Restriction constitutes permission to use the Premises for purposes described in Chapter 21, Section 17C of the Massachusetts General Laws, and that the parties hereto benefit from exculpation from liability to the extent provided in such section.

B. With advance notice to the Grantor, there is granted to the Grantee and its representatives the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of monitoring and enforcing this Conservation Restriction.

C. The Grantee and its agents and assigns may enter the Premises for the purposes of habitat improvement, to include measures designed to restore native biotic communities, or to maintain, enhance, or restore wildlife, wildlife habitat, or rare or endangered species. Said improvement may include mechanical and chemical manipulation and shall require the prior approval of the Grantor and the Massachusetts Natural Heritage and Endangered Species Program.

VI. EXTINGUISHMENT:

The Grantor and Grantee agree that the grant of this Conservation Restriction gives rise to a legal interest in the Grantee. If any occurrence gives rise to an extinguishment or other release of the Conservation Restriction under applicable law, the Grantor and Grantee shall be reimbursed from the proceeds, once recovered, for their respective share of reasonable legal expenses, if any, associated with the recovery of said proceeds. The remaining balance of the proceeds shall be deposited into the Grantor's Community Preservation Fund for the purchase of interests in open space in accordance with the Community Preservation Act. In the event the Town of Middleborough votes to remove itself from the provisions of the Community Preservation Act, or in the event that any non-Community Preservation funds are yielded by extinguishment, then such funds shall be applied to the acquisition of additional interests in open space.

VII. 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 Grantee and the Grantor are authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. Without limiting the foregoing, the parties hereto and their successors and assigns agree themselves to execute any such instruments upon the reasonable request of the other party.

C. Running of the Benefit: This Conservation Restriction shall be for the benefit of the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances and from time to time:

(i) as a condition of any assignment, the Grantee requires that the assignee make a written commitment in form and substance satisfactory to the Grantor, in its reasonable discretion, to carry out the purpose of this Conservation Restriction, and

(ii) the assignee, at the time of assignment qualifies under Section 32 of Chapter 184 of the General Laws as an eligible donee to receive this Conservation Restriction directly, and has the financial and administrative capacity to perform its obligation as Grantee under this Agreement, and

(iii) any assignment complies with Article 97 of the Massachusetts Constitution, if applicable.

VIII. ESTOPPEL CERTIFICATES: Upon request by the Grantor, the Grantee shall within forty-five (45) days, or sooner if possible, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. EFFECTIVE DATE: This Conservation Restriction shall be effective when the Grantor and/or the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded or if registered land, it has been registered.

X. MISCELLANEOUS:

A. The Grantor shall record this instrument in a timely fashion in the Plymouth County Registry of Deeds.

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

C. Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to the Conservation Restriction on approximately 103.09 acres of land off Murdock Street in Middleborough, MA belonging to the Town of Middleborough.

- D. Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- E. 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 hand delivered or sent by Certified Mail (return receipt requested), postage prepaid, addressed to the applicable party at the address set forth in Section I above, or at such other address as to which notice has been given as set forth in this Section, or that is reasonably ascertainable. Notice shall be deemed given on receipt.
- F. Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs 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 Restricted Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.
- G. Subsequent Transfers: The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in the Premises, including, without limitation a leasehold interest. Grantor further agrees to give written notice to Grantee of such transfer at least thirty (30) days prior to the date of such transfer.

XI. AMENDMENTS: If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, the parties may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of the Grantee under any applicable laws, including Section 170 (h) of the Internal Revenue Code of 1986, as amended, Article 97 of the Massachusetts Constitution or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any such amendment shall be consistent with the purpose of this Conservation Restriction, shall not affect its perpetual duration, shall not permit additional development or improvements to be constructed on the Premises other than development or improvements permitted by this Conservation Restriction on its effective date, and shall not permit any impairment of the conservation values of the Premises. Any such amendment shall be recorded in the Plymouth County Registry of Deeds and must be approved by the Grantor, Grantee, municipal officials and the Massachusetts Secretary of Energy and Environmental Affairs.

Executed under seal this _____ day of _____, 2013 by the Middleborough Board of Selectmen.

Town of Middleborough
By its Board of Selectmen:

Stephen J. McKinnon., Chairman

Allin Frawley, Vice Chairman

Ben Quelle

Leilani Dalpe

John M. Knowlton

COMMONWEALTH OF MASSACHUSETTS

Plymouth , ss.

On this day of _____, 2013, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory personal knowledge to the person whose name is signed above, and acknowledged the foregoing instrument to be signed by him/her voluntarily for its stated purpose, on behalf of said Board of Selectmen of the Town of Middleborough.

Notary Public

My Commission expires:

CONSENT OF THE MIDDLEBOROUGH CONSERVATION COMMISSION

We, the undersigned, being a majority of the Middleborough Conservation Commission, Town of Middleborough, Massachusetts, hereby certify that the Commission voted to assent to the foregoing Conservation Restriction granted to Wildlands Trust, Inc., pursuant to M.G.L. Chapter 184, Section 32.

Town of Middleborough
By its Conservation Commission:

Ronald Burgess, Chairman

Steven Ventresca, Co-Vice Chairman

D. Jeffrey Erickson, Co-Vice Chairman

Debra Kirsch

John Medeiros

Janet Miller

Diane Stewart

COMMONWEALTH OF MASSACHUSETTS

On this day of _____, 2013, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory personal knowledge to the person whose name is signed above, and acknowledged the foregoing instrument to be signed by him/her voluntarily for its stated purpose, on behalf of said Conservation Commission of the Town of Middleborough.

Notary Public
My Commission expires:

ACCEPTANCE OF GRANT

The above Conservation Restriction is accepted this ____ day of _____, 2013.

WILDLANDS TRUST, INC.

Karen H. Grey, President, As Duly
Authorized Representative of
Wildlands Trust, Inc.,

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2013

On this day of _____, 2013, before me, the undersigned notary public, personally appeared Karen H. Grey as President of Wildlands Trust, Inc., proved to me through satisfactory personal knowledge to the person whose name is signed above, and acknowledged the foregoing instrument to be signed by her voluntarily for its stated purpose, on behalf of Wildlands Trust, Inc.

Karyn Lord, Notary Public
My Commission expires:

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to Wildlands Trust Inc., has been approved in the public interest pursuant to MGL Ch. 184, section 32.

Dated:

Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

On this day of _____, 2013, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory personal knowledge to the person whose name is signed above, and acknowledged the foregoing instrument to be signed by him voluntarily for its stated purpose, as Secretary of Environmental Affairs on behalf of the Commonwealth of Massachusetts.

Notary Public
My Commission expires:

Exhibit A

Legal Description of the Premises

The Premises consists of approximately 103.09 acres off of Murdock Street in Middleborough and is shown on a plan of land entitled "_____". A copy of said plan is attached hereto as "Exhibit B". For Grantor's title, see Deed recorded with the Plymouth County Registry of Deeds in Book _____, Page _____.

EXHIBIT B

Exhibit C

Attested copy of Article _____ of the _____

Middleborough Town Meeting



Town of Middleborough

CONSERVATION COMMISSION

June 27, 2013

Celia Riechel
Executive Office of Energy and
Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: LAND Grant FY 2014 – Murdock & Summer Street Land (Map 21, Lot 1411 & Map 12, Lot 4585),
Middleborough, MA

Dear Ms. Riechel:

At the April 18, 2013 Middleborough Conservation Commission meeting the Commission unanimously voted to send this letter of support to permanently protect this property partially through the LAND Grant FY 2014. At the June 20, 2013 Conservation Commission meeting the Commission unanimously voted to sign the LAND Grant application.


The Commission feels this property should be protected for the following reasons: 1) There is a rich history of use by the local Boy Scouts; 2) There are unique features on the property such as an oxbow from the Nemasket River and two (2) potential vernal pools; 3) The property has been in active Forestry (Chapter 61) for many years; and 4) When the Gilchrest Family owned the property in the 1960's there were wishes to preserve it through the local Conservation Commission. 5) It is part of the BioMap 2 Core and Supporting Habitats. 6) Part of the property is also mapped under the Natural Heritage & Endangered Species Program. 7) There is the potential that the site may be archeologically significant.

This property is also in a key geographic area where there are already protected parcels or parcels that are currently in the pipeline to be protected. (See attached Map)

Ultimately this property has been on the Middleborough Open Space & Recreation Plan Priority map for many years and has been important for the Conservation Commission to protect.

The Commission hopes that the Executive office of Energy and Environmental Affairs feels the same way.

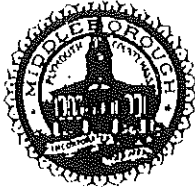
Sincerely,

A handwritten signature in black ink, appearing to read "Patricia J. Cassidy". The signature is fluid and cursive, with the first name "Patricia" and last name "Cassidy" clearly distinguishable.

Patricia J. Cassidy, Agent

For the Middleborough Conservation Commission

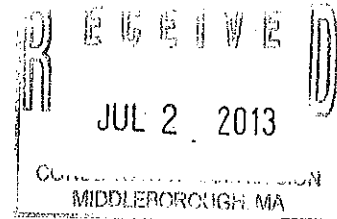
Attachment



Town of Middleborough

Massachusetts

BOARD OF SELECTMEN



July 1, 2013

Celia Riechel
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114

RE: Town of Middleborough Application – LAND Grant FY2014

Dear Ms. Riechel:

On Monday, July 1, 2013, the Board of Selectmen voted to support the Conservation Commission's grant application for Local Acquisitions for Natural Diversity (LAND) Grant Program to be used to acquire parcels of land in Middleborough, known as the "Lion's Head" property. The Conservation Commission has identified this parcel of land, which has significant frontage on the Nemasket River a direct tributary to the Wild & Scenic Taunton River, as being an important piece of land to be acquired for conservation as open space. If acquired, this will add to the area of parcels that are currently protected and which are being actively protected. The Conservation Commission hopes to also supplement the purchase of this property with our Community Preservation Act (CPA) funds.

Sincerely,

For BOARD OF SELECTMEN

Allin Frawley, Vice Chairman

Draft Community Preservation Act Town Meeting Article:

To see if the Town of Middleborough will vote to raise, borrow and/or appropriate \$156,600.00 for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately 103.09 +/- acres owned by Sarah Jigerjian and Mary Jigerjian as described on Assessors Map 21 Parcels 1141 & 4652 and Map 12, Parcel 4585, to be managed and controlled by the Conservation Commission of the Town of Middleborough in accordance with Chapter 40, Section 8C for conservation and passive recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager or Board of Selectmen be authorized to file on behalf of the Town of Middleborough any and all applications deemed necessary under the Self-Help Act (M.G.L. Chapter 132A, Section 11) or any other applications for funds in any way connected with the scope of this acquisition, and the Town manager and the Board of Selectmen and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town of Middleborough to affect said purchase. Said conservation restriction may be granted to the Wildlands Trust or any other organization qualified and willing to hold such a restriction.

Draft Municipal Town Meeting Article

To see if the Town of Middleborough will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen to allow funding from the Community Preservation Act Fund to borrow the sum of (\$435,000.00) according to M.G.L. Chapter 44, Section 8C, for the purpose of purchasing for conservation and passive recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as "Lion's Head" consisting of 103.09 acres, more or less, as shown on a plan entitled "Plan of Land in Middleborough" made by (surveying firm dated); that said land be conveyed to said Town of Middleborough under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of Middleborough, and the Conservation Commission be authorized to file on behalf of Middleborough any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts deemed necessary under Chapter 132A, Section 11 and /or any others in any way connected with the scope of this Article, and the Town of Middleborough and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of Middleborough to affect said purchase.

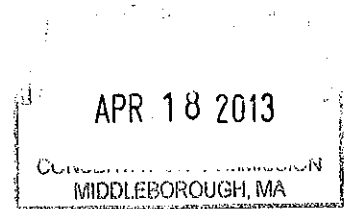
Patricia Cassidy

From: Cryan, Melissa (ENV) <melissa.cryan@state.ma.us>
Sent: Thursday, April 18, 2013 3:18 PM
To: Patricia Cassidy
Subject: RE: OSRP & LAND Grant

Tricia,

The LAND grant is due July 17th, so given that Middleborough's OSRP doesn't expire until the end of September, you're all set for this year's grant round.

Melissa



Melissa Cryan
(617) 626-1171

The Land and Water Conservation Fund Grant Round is now open!

Grant deadline is April 24 at 3:00 pm.

For more information, please visit <http://www.mass.gov/eea/grants-and-tech-assistance/grants-and-loans/dcs/grant-programs/>

From: Patricia Cassidy [<mailto:pcssdy@middleborough.com>]
Sent: Thursday, April 18, 2013 3:04 PM
To: Cryan, Melissa (EEA)
Subject: OSRP & LAND Grant

Hi Melissa,

I was just talking with Scott MacFaden of Wildlands Trust and we are now thinking of applying for the LAND Grant instead of the LWCF Grant. The town of Middleborough's Open Space & Recreation Plan expires in September of this year. Given that, would that impact our chances of being awarded the LAND Grant?

I am currently working on updating the plan and am hoping to have a final draft to you before the expiration but if for some reason I am late with it I am wondering about the grant award.

Thanks,

Tricia Cassidy

Patricia J. Cassidy, Agent For the Middleborough Conservation Commission
20 Centre Street, 2nd Floor/Middleborough, MA 02346
Phone: (508)946-2406/Fax: (508)946-2309
E-mail: pcssdy@middleborough.com/Web: www.middleborough.com

FILE

There has not been any significant change in the status or number of the town's fields since last reported in 2003. More fields are needed. Those we have are used to full capacity, and even overflow. The actual numbers and usage is very difficult to provide, but is significantly in the thousands on all fields. The Park Department recognizes that, at this time, the need is beyond our ability to provide and has agreed to help with maintenance on fields at both the Nichols School and Middleboro High School in order to provide more field availability for youth activities. A large majority of the residents of Middleboro enjoy an active, healthy, outdoor lifestyle which should be recognized and encouraged as valuable to us individually and as a community. The acquisition and development of additional fields and parks would add significantly to healthy opportunities for our youth and the betterment of the community.

Under the 2006 SCORP for the Southeastern region of Massachusetts outlines the top seven most popular outdoor recreation needs: First are coastal Beaches & Shoreline, Second are Golf Courses, parks, playgrounds and tot lots, third are Historical and Cultural sites, fourth are trips to lakes and ponds, fifth are rivers and streams, sixth are forests, and seventh are greenways and trails. People in Southeastern Mass visit parks and golf courses most frequently with visits to coastal beaches and shorelines second, lakes and ponds third and rivers and streams fourth.

Section 8 - Goals and Objectives

The following list provides concrete objectives to meet the general goals identified in Section 6 of this Plan.

Protect ground water resources

This would include the current and future Public Water Supply well sites and Zone I, II and III. Evaluate, prioritize and preserve or protect parcels necessary for protection of existing Public Water Supply Wells and their Zone of Contribution – Zones I, II and III and existing Public Surface Water Supplies and their watersheds.

Re-establish the Land Use Committee

Have them work more closely with the Conservation Commission.

Identify and prioritize parcels critical to the protection of Middleborough's and the region's water resources protection / acquisition including riparian zones and adjacent watersheds.

Initiate critical land protection and recreational opportunities
Do this on a regional level to include the City of New Bedford, adjoining towns, and non profit organizations such as the Taunton River Watershed Alliance, Inc. and The Nature Conservancy.

Manage and improve the Nemaasket River ecosystem

By doing this we would encourage recreational use of and on the river while at the same time, improve the anadromous fish run by various conservation and restoration means. Work with the surrounding towns that surround the Assawompsett Pond Complex, which influences the Nemaasket. Organize an annual stream survey.

Explore the possibilities of creating a Nemaasket/Taunton River Corridor designation

This would be similar to the Natural Heritage Corridor (Blacksone Valley), State Heritage Corridor or Greenways State Park (Connecticut River Valley). Support efforts of involved communities in nominating this corridor for distinction.

Preserve the rural character of the community

This would be achieved by acquiring and protecting agricultural land, open space, scenic roads and vistas and local villages. Use the newly established Community Preservation Act funds to assist in purchases through grants.

Preserve and promote historic villages throughout town

This would be accomplished with the adoption of local Historic District designations. Promote land uses within village areas that complement the village center. The Community Preservation Act could be used for this type of incentive.

Protect and maintain the abundant diversity of natural and rare habitats in Middleborough

This would be done through educating the community at large and for the town departments to work together in reviewing projects that may be mapped within the Division of Fisheries and Wildlife Natural Heritage & Endangered Species areas.

Educate the community on the values of open space protection including the advantages of conservation easements and restrictions.

Work with land trusts to see that preservation goals are met and educate landowners regarding tax incentive options. Also, hold workshops and seminars that allow the public to have access to the experts in answering their questions.

Improve all existing town-owned open space parcels

Implement trail improvements, public awareness enhancements, public facility improvements, handicapped access improvements, Timber Stand Improvements, invasive specie control, etc. Create a Stewardship program with volunteers to monitor and care for each of the open space parcels.

Implement Open Space and Recreation Planning on a more regional basis

Work with Southeastern Regional Planning and Economic Development District (SRPEDD) to make this a reality. Also, continue working with groups such as the Plymouth Carver Aquifer Advisory Committee.

Support continued viability of agriculture and forest land management

This would be achieved through education, best management promotion, and incentives, zoning and promoting "buy local produce". Create a brochure for the Chamber of Commerce and Town to have available to tell people where to find the local produce as a "Farm Trail".

Discover and preserve /acquire historic and archeological sites

Work with Mass Historic and the Community Preservation Committee to achieve this goal.

Promote the use of non-motorized modes of transportation throughout Middleborough

Create bike trails that eventually link to adjoining towns.

Promote hunting and fishing opportunity in Middleborough

This would be done through encouraging Mass Division of Fisheries and Wildlife to stock appropriate ponds and rivers to improve local fisheries; continue pheasant and quail stocking programs at Great Cedar Swamp and on private land; encourage land owners to allow access to privately owned open space for hunting.

Provide and promote wholesome organized recreational activities for Middleborough youth

This would include acquiring and improving additional open space for athletic fields and parks as well as maintaining existing facilities.

Promote private recreational businesses that conserve open space values and protect wildlife habitats

Development Management Plans

This would include forest stand type map for each town-owned forested parcel to promote Timber Stand Improvement. Implement through the Department of Conservation & Recreation Grant Program.

Prepare to-scale site maps for each town-owned open space parcel

These would include public access availability that illustrate existing site conditions including forest stand types, foot and bike trails, public amenities, parking areas, unique features, etc. This map will be available on the town-managed web site.

Section 9 - Five-Year Action Plan

Successful attainment of the goals and objectives listed in Section 8 will require constant, deliberate collaborative effort by the Town of Middleborough. Beyond the submission and approval of this 2008-2013 Open Space & Recreation Plan update, a team of individuals will need to formerly implement actions identified in this plan to continue the success story that took place at the May 2008 Town Meeting where the citizens of Middleborough declared the direction in which they would like open space preservation to take by voting to purchase both the Freitas and Gibbs properties – in a time of economic uncertainty. To meet the objectives listed in Section 8 – Goals and Objects, the following Action Items:

Year(s)	Description	Responsible Agencies	Funding Source
1 to 2+	Re-establish the Open Space Committee	Conservation Commission	N/A
1 & 2	Evaluate the 2009 Survey. Prioritize the wants and needs of the residents.	Open Space Committee	Volunteers
1 through 5	Establish a sub-committee (Stewardship Committee) to catalog all town-owned parcels. Each parcel will be evaluated for improvements; recreational opportunities; unique features; ADA Compliance. A separate file shall be made for each parcel.	Open Space Committee, Stewardship Committee and Conservation Commission	N/A
3 through 5	Develop a standard procedure for identifying critical open space and recreation land for protection and/or acquisition. This procedure will be used to prioritize parcels for protection	Community Preservation Committee and Conservation Commission	N/A
1 through 5	Create Geographic Information Systems (GIS) data and coordinate plan updates as necessary. Develop information that can be accessed through the town website on each town owned parcel including information on location, amenities, acreage and recreation opportunities.	Conservation Commission, Planning Department, Assessor's Department, Information Technology Department	To be determined

1 through 5	Continue to work on protecting land along the Taunton and Nemauskett Rivers. Collaborate with other agencies to identify core habitats, river corridors and promote connectivity of open space across town lines. (Action Map Item B)	Conservation Commission, Land Trusts, State Environmental Agencies	Grants, CPA
Ongoing through 5	Evaluate Conservation Restrictions and Agricultural Preservation Restrictions to ensure they are being managed in accordance with their legal restrictions. Properties where The Nature Conservancy or Wildlands Trust hold the restriction will continue to be inspected annually.	Conservation Commission, The Nature Conservancy, Wildlands Trust, Inc.	NGO Budgets, Town Budget
3 & 4	Research the implementation of Timber Stand Improvements (TSI) on town owned forested lands. TSI's promote the growth and sustainability of quality timber, improves wildlife habitat, and improves watershed management if done correctly.	Conservation Commission, Board of Selectmen	DCR Forest Stewardship Grant, Town Conservation Fund
2 through 4	Implement trail improvements identified during each town owned parcels evaluation. Weston Forest, Morgan Property, Pratt Farm, Black Brook area, and other parcels.	Conservation Commission, Weston Forest Committee, Boy Scouts, Ametcoops Group, other volunteers	In kind volunteer services, DCR Trails Grant
3	Implement vernal pool certification on town owned land. A file should be made with a list of potential vernal pools on town owned land with the potential vernal pool map for each parcel.	Conservation Department	Conservation Budget
1 through 5	Connect Schools to natural areas by either creating new trails or marking existing trails for outdoor education programs. (example: Nichols Middle School and the Early Childhood Center could be connected to Pratt Farm)	Conservation Commission, School Department	DCR Trails Grant, Educational Grants, CPA
5	Implement ADA compliance on town lands such as the Downtown playgrounds and at the schools. (Action Plan Map Item D).	Commission on Disability, Board of Selectmen, and Park Department	Capital Improvement through town budget and potential grants.
1 through 5	Protect and Preserve Historic villages and Archeological sites, Preserving the rural character of the community.	Historical Commission, Historical Society, Massachusetts Archeological Society (MAS)	Grants, CPA
1 through 5	Continue to work with the Parks Family to protect and preserve the Core Farm Parcels. (Action Plan Map Item G).	The Nature Conservancy, CPC, New Bedford Water Supply	Water Protection Grants, CPA
1 through 5	Protect remaining Freitas Family Land with a Conservation Restriction (16 acres has been protected) (Action Plan Map Item A)	The Nature Conservancy, Wildlands Trust, Inc., Conservation Commission	Grants, CPA, Town Budget if available

5 Convey town owned land next to the Town Forest to the Conservation Commission who also manages the Town Forest (Action Plan Map Item F)	Board of Selectmen, Conservation Commission	Town Meeting Action
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Section 10 – References

A. Town of Middleborough

Communication with Conservation Commission
 Communication with Planning Department
 Assistance from the Commission on Disabilities
 Town Clerk Figures
 The Middleborough Historic Commission
 The Middleborough Council on Aging
 Town of Middleborough, MA Community Development Plan dated June 7, 2004; Prepared by Larry Koff & Associates
 Middleborough Master Plan: Report on Findings and Alternatives (2002)
 1998-2003 Open Space and Recreation Plan

B. Open Space Documents

The 1998-2003 Open Space Plan
 Open Space and Recreation Planner's Workbook
 2006 Statewide Comprehensive Open Space Recreation Plan

C. State Resources

NHESP: A Field Guide to the Animals of Vernal Pools (May 2001)
 NHESP Biomap
 Massachusetts Bay Transit Authority (MBTA)
 Massachusetts Executive Office of Energy and Environmental Affairs (EOEA)
 Massachusetts Department of Environmental Protection, Division of Water Supply
 Living Waters: Guiding Land Conservation for Biodiversity in Massachusetts, 2004
 SCORP – 2006

D. Federal Resources

U.S.D.A Soil Conservation Service Soil Survey for Plymouth County, 1969
 US Census Information, 2000, 2010

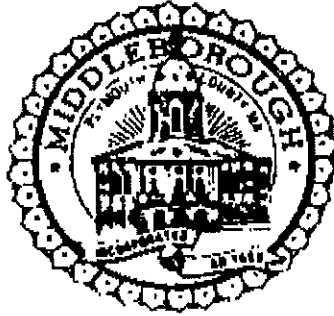
CHARTER

TOWN MANAGER GOVERNMENT

MIDDLEBOROUGH, MASSACHUSETTS

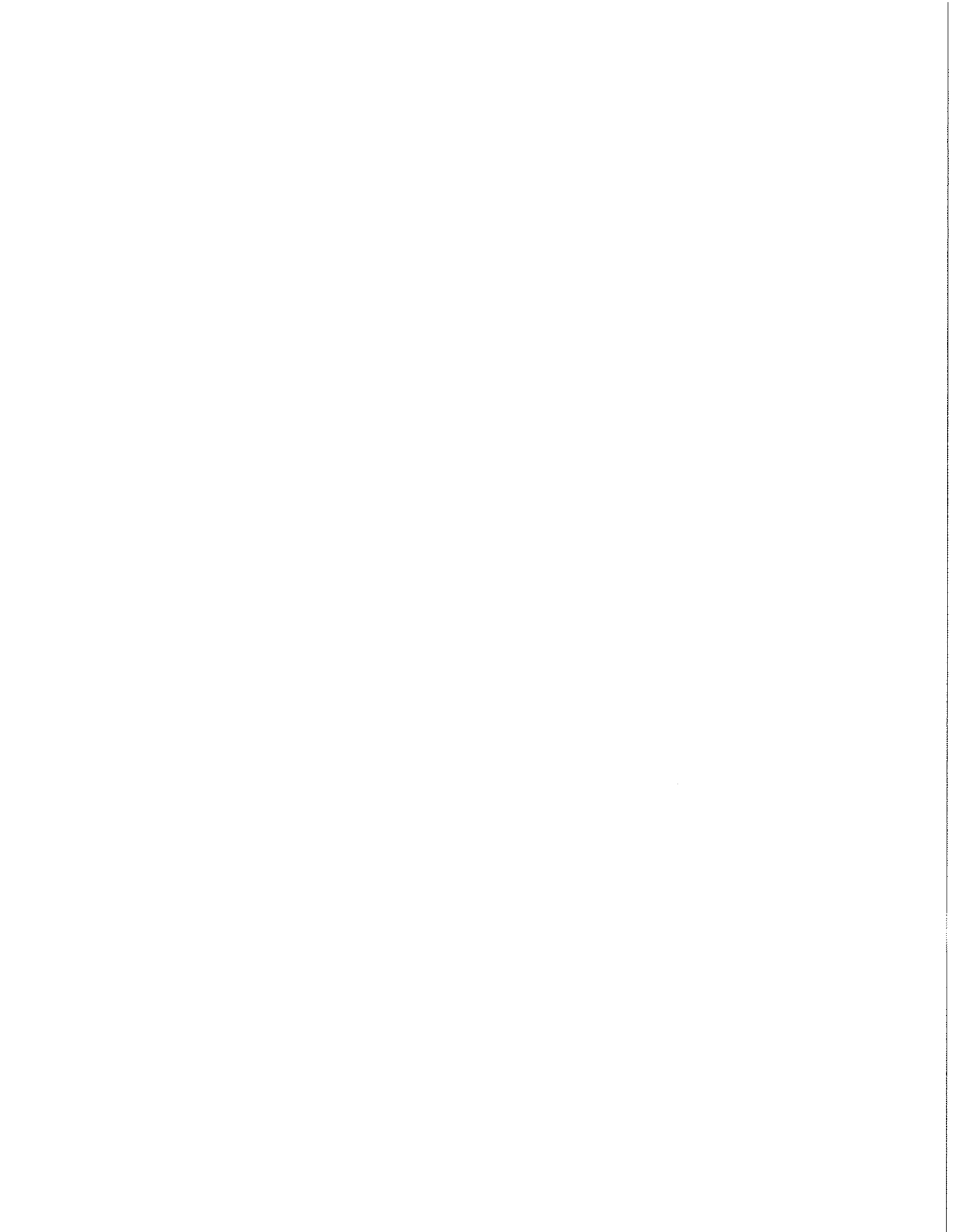
CHAPTER 592 ACTS 1920

WITH AMENDMENTS



REVISED: JUNE 13, 1995

**AN ACT TO ESTABLISH A TOWN MANAGER FORM OF GOVERNMENT
FOR THE TOWN OF MIDDLEBOROUGH**



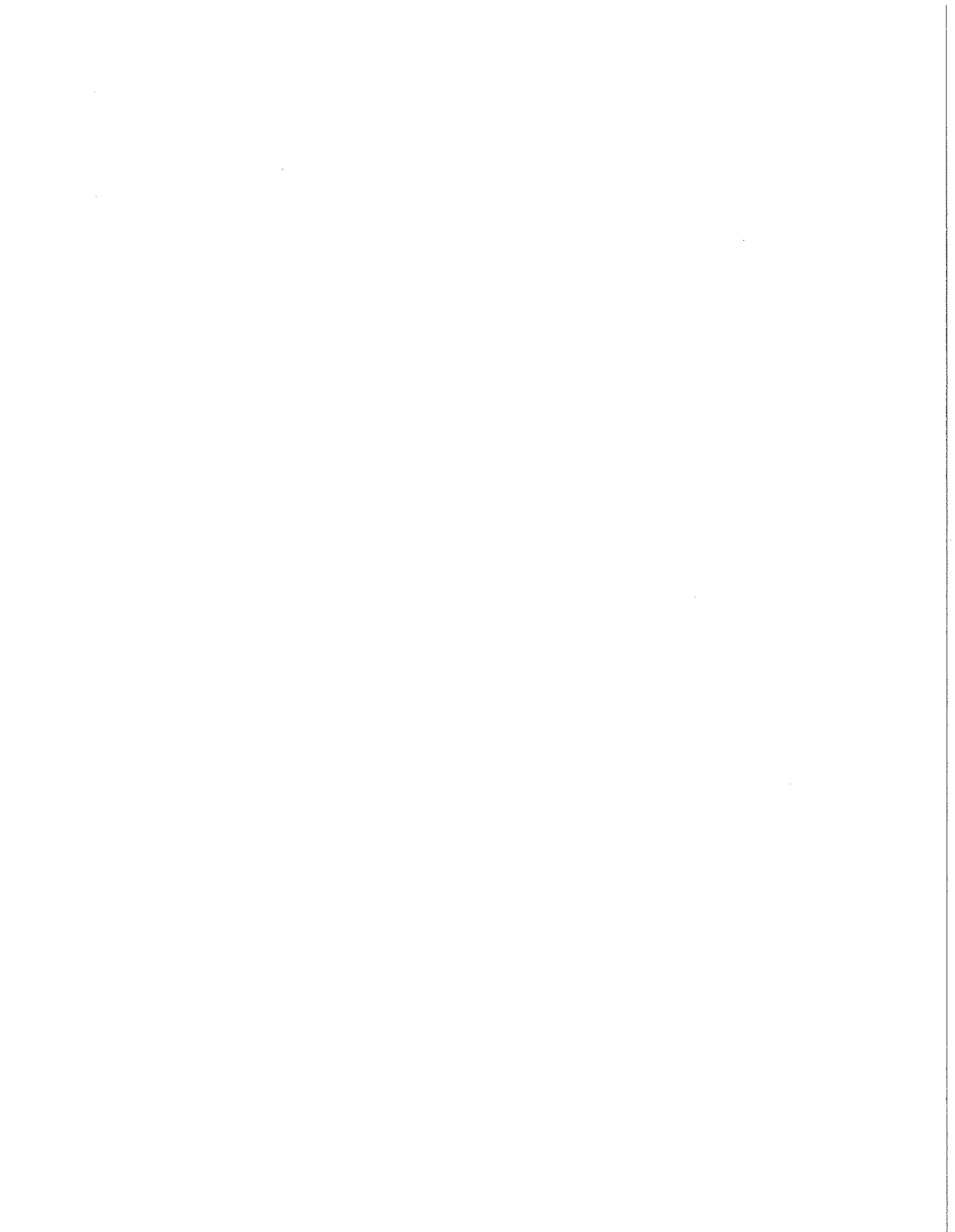
TOWN MANAGER

SECTION EIGHTEEN: The Selectmen, elected as provided in Section Two shall appoint, as soon as practicable, a Town Manager who shall be the administrative head of all departments of the town government, the conduct of which is by the General Laws and by this act placed upon the Selectmen of the town, except as provided otherwise in this act. The Town Manager shall be subject to the direction and supervision, and shall hold office at the will of the Selectmen, and shall be a person specially fitted by education, training or experience to perform the duties of the office. He shall be appointed without regard to his political belief and he may or may not, when appointed, be a resident of the town or state. He shall be responsible for the efficient administration of all departments within the scope of his duties. Before entering upon the duties of his office, the Town Manager shall be sworn to the faithful and impartial performance thereof by the Chairman of the Selectmen, or by the Town Clerk, or by a Justice of the Peace. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the selectmen.

POWERS AND DUTIES

SECTION NINETEEN: The powers and duties of the Town Manager shall include the following:

- (A) To organize, continue, or discontinue such divisions or departments from time to time as may be determined by vote of the Selectmen not inconsistent with the provisions of this act.
- (B) To appoint upon merit and fitness alone and, except as otherwise provided herein, to remove all Superintendents or Chiefs of departments and all subordinate officers and employees in such departments, and to fix all salaries and wages of all subordinates and employees subject to law. The Superintendent or Chief of departments shall not be removed by the Town Manager, except on five days notice in writing which shall state the cause of such removal.
- (C) To exercise control of all departments or divisions made subject to his supervision.
- (D) To attend all regular meetings of the Selectmen, and to recommend to the Selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.
- (E) To keep full and complete records of his office and to render as often as may be required by the Selectmen a full report of all operations during the period reported on; and annually or oftener if required by the Selectmen, to make a synopsis of all the reports for publication.
- (F) To keep the Selectmen fully advised as to the needs of the town within the scope of his duties, and to furnish the Selectmen in writing on or before the



Thirty-first day of December of each year with a detailed list of the appropriations required during the next ensuing fiscal year for the proper conduct of all departments of the town under his control.

- (G) To keep in repair all the town buildings.
- (H) To purchase all supplies and materials for all departments of the town except books for schools.
- (I) To administer the health regulations of the town as required by the by-laws, or by the Selectmen, in addition to those provided by statute, either directly or through a person appointed by him, to be designated as the Health Officer, and under the supervision of the Selectmen exercising the powers of the Board of Health.
- (J) To perform such other duties, consistent with his office, as may be required of him by the by-laws of the town, or by vote of the Selectmen.

EXAMINATION OF DEPARTMENTS

SECTION TWENTY: The Town Manager may without notice cause the affairs of any division or department under his control or the conduct of any officer or employee thereof to be examined. The Town Manager shall have access to all town books and papers for information necessary for the proper performance of his duties.

TOWN MANAGER MAY BE REMOVED FOR CAUSE

SECTION TWENTY-ONE: The Selectmen, by a majority vote, may remove the Town Manager by filing a written statement with the Town Clerk setting forth in detail the specific reasons for his removal, a copy of which statement shall be delivered to the Town Manager. Such removal shall not take effect until the expiration of five days after the filing of the statement with the Town Clerk, but if it is so recited in the statement the Town Manager shall be suspended from office forthwith. If the Town Manager so requests within the said five day period, a public hearing shall be given to him by the Selectmen, and in that event the removal of the Town Manager shall not take effect until a written decision following the hearing shall have been filed with the Town Clerk. Such decision by a majority vote of the Selectmen shall be final.

VACANCY

SECTION TWENTY-TWO: Any vacancy in the office of Town Manager shall be filled as soon as possible by the Selectmen. Pending the appointment of a Town Manager or the filling of any vacancy, the Selectmen may appoint a person to perform temporarily the duties of the office.

