

Southampton Conservation Commission  
Larrabee School Building  
June 2, 2003  
Time: 7:00 p.m.

Revised & approved  
by the COM-COM  
on Jan 2, 2007

Present: Robert Floyd, Tom Gentile, Joe Kingsley, Mark Reed, Jim Moore

Absent: Andrea Lucchesi

PUBLIC OPEN MEETING 7:00 p.m.

Joe Slattery, Gilbert Road, stated that a pond disappeared on High Street

7:15 p.m. Public Hearing, Chris and Cynthia Domina, NOI for sewage disposal system, 344 College Highway, Jim Gracia represented the applicant. Mr. Gracia is measuring the wetlands by plants and not soil testing. The Commission will conduct a site visit, Thursday, June 5, 2003. The public hearing will be continued on June 10, 2003 at 7:15 p.m. Nancy Dumont, Laurel Hill Road, spoke of the clear cutting done on the property

7:30 p.m. Mark Reed stepped down.  
Red Brook Estates - Continuation of Hearing. DEP has concerns and the applicant has forwarded amended plans to DEP today. Chuck Dauchy, Surveyor for Heritage Surveys, Inc., reviewed the major points.

Tom Gentile requested all delineation's to be identified

Mark Kassis, 19 Fomer Road, addressed concerns of the salt run off into Red Brook.

Ann Cressotti, Fomer Road, expressed concern about overflows in to the vernal pools

Stephen Cressotti, Fomer Road, expressed concern about run off affecting Red Brook

Ellen Senghas, 19 Fomer Road, addressed the problem of run off from lawns

Wally Rapalus, 315 College Highway, expressed concern to any run off that would affect the Manhan River

Dorothy Forster, Fomer Road, Addressed the wet lands

Libby Baldwin, 68 High Street, inquired if the wet lands haven't been delineated how can the deed be written

Neel Russell-Smith, 84 High Street, inquired how the 200' was measured from the brook (including vertical vs horizontal directions)

Libby Baldwin inquired if the 200-foot would extend to Lot 15

Robert Floyd asked if the parameter 5000 sq. ft. relate to the flood plain.

Tom Gentile inquired if dewatering was necessary

Daniel Rukakoski, Fomer Road, inquired about the depth of Red Brook and were there test pits

Chuck Dauchy responded to the total impervious area as there being .567 acres of impervious area.

Bob Hendricks, College Highway, inquired if stream flow data for Red Brook existed.

Jim Moore responded to the Gazette quoting him predicting the outcome in favor of the developer. Mr. Moore stated his quotation was not completely correct as quoted

Paula Rapalus, 315 College Highway, addressed how the project would be voted on

Joe Labrie, Gilbert Road, presented vernal pool data with photos

Gary Swanson, 72 East Street, observed the Commission not to put the town in legal jeopardy

Stephen Cressotti addressed the money issue versus bills and trees being the organic soul of this community.

Terry Ann Hoog, Cook Road, asked Gary Swanson about Gazette article.

Daniel Rukakoski, 11 Fomer Road, inquired if the applicant planned on testing the volume of fill material and provide test results

Mr Dauchy responded that the applicant would use the specifications of the town's highway department. When asked if the applicant planned to certify the water quality testing, Mr Dauchy responded there is no requirement for continued testing as the state doesn't deem it appropriate

Ann Cressotti addressed the rights of the developer versus the unknown abutter's rights

Bob Hendricks, College Highway, asked if it is mandatory that the bridge be built

Mr Dauchy responded that it meets the town subdivision regulations.

Ellen Senghas inquired as to the possibility of a proposed second bridge

James Boyle responded to a question from a woman, 11 Fomer Road, that the community doesn't want this project and can the land be purchased back. Mr Boyle stated it could be available for sale at a fair profit

Mark Kassis, 19 Fomer Road, suggested the Commission address the project as a whole and not piece meal. Mr Kassis requested outside expertise and the lower wet lands (near I of 15) be delineated

Meeting was adjourned by Jim Moore

# CONSERVATION COMMISSION

PAGE 1 of

MEETING / HEARING  
 JUNE 2, 2003  
 SIGN IN - SHEET

SIGN NAME	PRINT NAME
Ronald D & Gwinnes	RONALD D GWINNER
Peggy S Macleod	Peggy Macleod
Frank D. Lubyne	FRANK D LUBYNE
Ronald Pizniak	Ronald Pizniak
Robert Martin	Robert Martin
Lori M Rutkowski	Lori Martinez Rutkowski
Daniel P Rutkowski	Daniel Rutkowski
Virginia H Ahart	Virginia H Ahart
Dick Ahart	DICK AHART
Aane Cressotti	Aane Cressotti
Mark A Rejzrak	Mark A Rejzrak
Barbara E Rejzrak	Barbara E. Rejzrak
Dick Howland	DICK HOWLAND
Tab Hendrick	Tab Hendrick
Maxine F Hendrick	Maxine F. Hendrick
Wallace E Rapalus	WALLACE E RAPALUS
Paula Rapalus	PAULA RAPALUS
Mabel B Emerson	MABEL B EMERSON
Leona B Hendrick	LEONA B. HENDRICK
Robert Hendrick	Robert Hendrick
Joe Slattery	JOE SLATTERY
G. P. Swanson	G. P. Swanson
G. R. Swanson	G. R. Swanson
Marla J. Hanc	Marla J. Hanc
Tom ...	Tom ...

MEETING / HEARING

JUNE 2, 2003

SIGN-IN SHEET

SIGN NAME

PRINT NAME

~~Stephan Cressoth~~

~~Stephan Cressoth~~

Stephan Cressoth

Stephan Cressoth

Joe Zelin

Joe Zelin

Kristina Bourne

KRISTINA BOURNE

~~Edward H. Gwinner Jr.~~

Edward H. Gwinner Jr

Edward H. Gwinner Jr.

Roy Rogers

Roy Rogers

Frank Sigpa

FRANK SIGPA

Norothy Forster

Norothy Forster

Edward Nied Jr.

Edward Nied Jr.

Mark Kross

Mark Kross

Ellen Senghas

ELLEN SENGHAS

Elizabeth Ballwin

Elizabeth Ballwin

Douglas Lampson

DOUGLAS LAMPSON

Peg Lampson

Peg LAMPSON

Richard Golas

Richard Golas

Susan Lewandowicz

Susan Lewandowicz

Jerry Ann Hoy

2 BOXES (STAMP FULFILLMENT SERVICES) (ENVELOPES)  
DAILY HAMPSHIRE GAZETTE ~~UNDELIVERED~~  
(NEWSPAPER ADVERTISING) MAY 27

MACC - ANNUAL DUES MAY 20

Southampton ~~Historical~~ Historical of MAY 21

Commission - FARM BLOG

COLVAP MERTON PAS CARP

CINDY DOMINA 1 FACULTY LANE 30 Holiday Chel

Conservation Land and IDA - Thank you for \$100

Don R. DSK: 1 11 Foner Rd G181 - Registered

EOAA - Jod Linn M. 21

Re: Scepte Property Self-Help #1

EOAA MAY 23 Self-Help 2002

~~Hemp~~ Digital

Hampshire Council of Governments Newsletter

COASTAL NEWSLETTER

MASS WILDLIFE NEWSLETTER

Col. David ASSOC WPA FORM 813 - City of Compliance

81 Pomroy Meadow Road, LOT #4

Cross Insurance Agency CITY OF Holyoke

Water Dep.

AMER COOP  
5/21/03

undated pre 5/13

New England Environmental MACC Conference

Follow up 5/20/03

TIGHE + BOND

5/15 HOLYOKE WATER WORKS

DEP  
EOAA 5/13/2003

CHEN + CYRILIA DONATO

NOI acknowledgment

NHESP FILE # OR-11820 Proposal Red Brook Est

NHESP CERTIFIED 5/22/03  
VERNAL PDDL 3169

FVPC INVITE THURS, June 12  
EOEA DEP 5/13 ROMANA  
FAX WETLANDS NOTIFICATION  
ACKNOWLEDGEMENT



Mass Wildlife

Commonwealth of Massachusetts

# Division of Fisheries & Wildlife

Wayne F. MacCallum, Director

May 22, 2005

Southampton Conservation Commission  
P.O. Box 343  
Southampton, MA 01073

RE:	Applicant:	Jim Boyle Construction
	Project Location:	Fomer Road
	Project Description:	Construction of roadway, sidewalk, arch culvert and two detention basins
	NHESP File No	03-11820

Dear Commissioners:

The applicant listed above has submitted a Notice of Intent with project plans (dated 3/17/03) to the Natural Heritage & Endangered Species Program (NHESP) in compliance with the inland rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.59) for the subject project.

Based on a review of the information that was provided and the information that is currently contained in our database, the NHESP has determined that this project occurs near but not within the actual habitat of a state-protected rare wildlife species. It is our opinion that this project, as currently proposed, will not adversely affect the actual habitat of a state-protected rare wildlife species.

Please be advised that the NHESP has received Vernal Pool Certification forms for a pool near the proposed project area. We have confirmed that it is a vernal pool and we are proceeding with formal certification. We will send the Commission, the landowner and the DEP copies of all paperwork and maps relating to the certification.

If you have any questions or if you need further information regarding this project please contact Nancy Putnam at (508) 792-7270 ext. 306.

Sincerely,

Thomas W. French, Ph.D.  
Assistant Director

cc: Jim Boyle Construction  
Charles Dauchy, Heritage Surveyors  
DEP Western Regional Office

[www.masswildlife.org](http://www.masswildlife.org)

Division of Fisheries and Wildlife

Field Headquarters, One Rabbit Hill Road, Westborough, MA 01581 (508) 792-7270 Fax (508) 792-3275

NOV 23 2005 2:47PM HERITAGE SURVEYS INC. DEPARTMENT OF FISHERIES, WILDLIFE & ENVIRONMENTAL SERVICES

May 5, 2003  
Re: Red Brook Estates  
To: Southampton Conservation Commission  
From: Ellen Seughas, M.D.

I would like to present two positions to the Southampton Conservation Commission. First, I believe that the developer of the Red Brook Estates is avoiding compliance with state law, specifically the Mass. Endangered Species Act (reg. 321, CMR 10). Second, I appeal to the Conservation Commission to actively engage in an effort to preserve a greenway through Southampton, to include the area of the proposed development.

First, I'd like to address the argument that the developer is proceeding in violation of the Mass. Endangered Species Act (reg. 321, CMR 10). The National Heritage and Endangered Species Program (NHESP) has developed maps for the state that show estimated habitats where rare wildlife has occurred and been documented within the last 25 years. These maps are updated periodically, and are available on the internet. Developers are responsible for checking these maps, and if their project falls within a delineated Estimated Habitat they must submit a Notice of Intent to their local conservation commission and also to the NHESP. The NHESP determines whether the project will have an adverse effect on the habitat, and will communicate their opinion to the local conservation commission, and the local conservation commission "shall presume this opinion to be correct." (NHESP Regulatory Review). "The Conservation Commission cannot issue an Order of Conditions, allowing the project to proceed, for at least 30 days after the filing of the Notice of Intent until the NHESP has communicated its opinion to the commission."

At the time of the public hearing before the Planning Board concerning the proposed Red Brook Estates no Order of Intent had been filed with the NHESP. In fact, when this argument was raised before the Planning Board, and the maps submitted that showed the development overlapping with the Estimated Habitat along its southernmost border (lot

15), the response from Charles Dauchey, the Environmental Consultant for Jim Boyle Construction, was "the proposed work is far away from any area identified on NHESP maps." This seems to be a flippant response, and certainly incorrect.

The proposed development clearly overlaps the Priority Habitat. It is true that the location of the houses, driveways and lawns are **not** included in the developer's plans, so one cannot say for certain **where** or how large they would be. The developer could situate the construction to avoid breaking ground in the priority habitat. But the environmental impact of 150 people living next to the habitat, with the septic drainage, runoff from streets and lawns and foot traffic would very likely have a significant impact on the surrounding environment.

I would like to point out that since these maps were last updated, threatened species and vernal pools have been added to the registry, extending the habitat that includes threatened and endangered species up the Red Brook, and including more land not delineated on the current maps but within the boundaries of the proposed development.

What would happen if the project were allowed to proceed, and the NHESP found that Priority Habitat was altered? Penalties for alteration of a significant habitat in any way that affects the health of endangered and threatened species includes "up to \$20,000.00 fine, plus 180 days in jail plus restoration of the habitat to it's former condition."

We have heard that after the letter of rebuttal was written by Mr. Dauchey to the planning Board, maps and a letter were sent to the NHESP (but still no official Notice of Intent) for the purpose of informing the NHESP that the development did not overlap the Priority Habitat. Similar arguments regarding the dismissal of regulatory review by MEPA and also the failure to acknowledge the impact of the development on the Barnes Aquifer will be made by other citizens at this meeting. It concerns me greatly that thus far the parties promoting the development appear to be skirting laws that may impact their maximum profit.

Next, I would like to address the concept of preserving a Greenway through Southampton. We are currently experiencing a phenomenal rate of development in the state of Massachusetts. Those of you who read "Connections," the Mass. Audubon Newsletter, may have noticed a short essay written by Chris Leahy, the Gerard A. Bertrand Chair of Natural History and Field Ornithology at Mass. Audubon. Leahy notes that our rate of land development is very high, a 188% increase between 1950 and 1990, significantly exceeding our 28% population growth within that same period. We are currently losing 25 square miles of habitat annually, in a state that is already the third most populated state in the nation. Towns like Southampton contain some of the last refuges for rare and threatened species in the state, and are also the most vulnerable to development because we contain some of the only remaining open space.

It is inevitable that we will see more development in Southampton over the next few decades. It is also imperative that we address this issue in a manner that best preserves the health of our community, even and especially in this climate of economic crisis. The Southampton Conservation Commission plays a key role not only in determining what our own town will look like in 10 or 20 years, but also in the health of our neighboring towns as well.

This particular piece of property has unique characteristics that are vital to the health of the surrounding communities. It is a high, wooded upland area with porous soil and rapid runoff, located at the convergence of the Manhan River and the Red Brook. It supports many species of amphibians that need a short distance to migrate from woodland areas to vernal pools for spawning. It has also served as a route for the natural reintroduction of mammals such as the mountain lion and bear to the Mt. Tom Reservation. It functions as a stepping stone from the Watershed Area of the Westfield River in Montgomery and the Huntington State Forest in Huntington, through the Tighe-Carmody Reservoir, along the Manhan River to this very location, then on through the Hazel Young Sanctuary immediately across Rt. 10, along the abandoned railroad line and into Mt. Tom Reservation. There are many well documented examples illustrating the importance of

preventing genetic isolation of wildlife and the unhealthy effect such isolation has on the surrounding area. Maintaining a greenway from the hill towns to the Mt. Tom Reservation is critical, and this is a vital area along that lifeline.

In addition, there has been a tremendous effort in recent years to recolonize the Connecticut and its watershed area with Atlantic Salmon. Major efforts are underway to build a fish ladder in Easthampton to allow the salmon to migrate further up the Manhan to their former spawning grounds. The next dam upstream from the proposed ladder is at Lyman Pond, by Sheldon's Ice Cream Store, precisely at the border of the Hazel Young Sanctuary and the convergence of the Manhan and the Red Brook. This is truly a priority habitat, and one that could be profoundly affected by excessive runoff from septic systems, road salt and lawn chemicals.

I would also like to bring to the attention of the Conservation Commission the well-documented contamination of the Barnes Aquifer, from both the Southampton Engineering Co. and the TCE contamination along Line Rd. Our local Tumor Registry has noted an increased incidence of unusual cancers within the plume of TCE contamination, and probably attributed to this solvent. In fact, some of these statistics have been my patients. Perhaps they were your friends or relatives. When the Barnes Aquifer Commission tells us they believe "that the proposed subdivision poses a significant threat to the quality of the water in the Barnes Aquifer," we should heed these warnings.

In summary, I know that development in Southampton is inevitable, and I am sure that we can accommodate a higher population here, perhaps with even less impact on the surrounding environment than we have at present. But we can accommodate this growth and maintain the health of our community only if we carefully regulate where we build, and where we choose **not** to build. This area of the proposed Red Brook Estates is an area **not** to build. Not only will we negatively impact an area that is already designated a Priority Habitat for Threatened and Endangered Species, we may endanger the health of humans in surrounding communities, both abutting and distant.

I appeal to the Conservation Commission to act on behalf of this town and surrounding communities; not only to urge the developer to significantly alter his proposed plans, but to work with the Planning Committee, Zoning Board, Community Preservation Committee and concerned citizens to enable healthy growth that benefits our community

Jim Moore  
Chairman of Conservation Commission  
and Conservation Commission Members  
Town of Southampton  
8 East Street  
Southampton, MA 01073

May 1, 2003

Dear Chairman,

I am writing to delineate our concerns about the Environmental and Conservation issues raised by the proposed "Red Brook Estates". They fall into five categories:

- Unique habitat and species
- The detrimental environmental impacts of the proposal
- Developer's apparent unwillingness to meet obligatory state mandates
- Clarifying misinformation provided by the developer
- Our recommendations for options for addressing the environmental concerns

#### Unique habitat

This area should be a true priority for the Conservation Commission. There is a large diversity of wildlife along Red Brook. The Red Brook corridor provides a wildlife corridor from the Mt Tom reservation through the Hazel Young Trail and the land preserved around the Thghe Carmondy reservoir into the hill towns and the Berkshires. The area along the Manhan River is within the existing areas designated NHESP Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pools. This wildlife habitat extends up through the Red Brook corridor.

#### Environmental impacts

- Wet Land
- River Banks
- Disturbing flow of river
- Sediment
- Threatened species
- Vernal Pools
- Pollutants
- Density

## Upland requirements of species breeding in vernal Pools

### Developers unwillingness to meet state mandates

The developer is required by HNESP regulations to file a Notice of Intent with the NHESP \_\_\_\_\_. We understand that they only filed when the NHESP contacted the Southampton Conservation Commission that they had not received a Notice of Intent. There statement that the development site and lot 15 is not contiguous with the HNESP Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pools

It is our belief that the developer meets requirements to submit at \_\_\_\_\_ to MEPA because they meet multiple criteria. They will be developing over 25 acres as they will be creating over 5 acres of impervious cover

These actions show the developer is actively avoiding current state mandates

### Clarifying misinformation presented by the developer

Barnes Aquifer Mr. Bruce Coombs in his letter dated April 8<sup>th</sup>, 2003 to the Planning Board made statements that we strongly believe are not true

This letter states "there is not a connection between the aquifer a under the Davis Plain and the Barnes Aquifer. We have spoken to Mr. Charles Darling, Chairman of the Barnes Aquifer Protection Advisory Committee who confirms the statement made in there attached January 9<sup>th</sup> letter to the planning board that "the proposed Red Brook Estates is in the prime recharge area for the Barnes Aquifer". This is confirmed by the attached state mapping of the Barnes aquifer. Therefore it remains the obligation of the Conservation Commission to make sure that the proposed development addresses the concerns of the BAPAC (letter attached) including compliance with nutrient loading. *The plans not include required BOH regulations for applicants to provide water quality assessment (including location of septic field in the plans. Garbage disposal Storm water management Pesticide, fertilizer and deicer impact Limiting damage from construction*

*The BAPAC strongly suggests that abutting parcels are protected from further development*

The developer had been avoiding requirement to submit a Notice of Intent to NHESP. Lot 15 clearly allows development of at least two houses very close to the present polygon that delimits the Priority Habitat for Rare Species and Estimated Habitat of Rare Wildlife and Vernal Pools. Furthermore the intent of this required Notice of Intent is this is a likely area with contains habitat and species that require protection. Indeed the habitat for rare and threaten species extends up the Red Brook and many of the species require the upland areas of the Davis Plane to survive. There are threatened plant species

and vernal pools along the Red Brook below the planned bridge. Protecting this habitat should be the obligation of the Conservation Committee and the developer has demonstrated that they are attempting to avoid required state mandates.

Bridge Salt  
Avoid Regulatory Obligations  
    MEPA  
    NHESP  
Soil type

Recommended options for addressing these concerns:

1. Decreasing density of housing
2. Covenant consistent with BAPAC request to protection of abutting land from further development (written agreement that Mr. Boyle will not develop abutting land).
3. Prevent disruption of sensitive habitat by not allowing the placement of proposed bridge over the Red Brook.
4. At a minimum negotiate a true conservation corridor protecting the environmentally sensitive areas along the Manhan River and the Red Brook. This should include both areas in the valley of the Manhan and Red Brook and 100 foot of contiguous upland area in the Davis Plain. This should include areas of Lot 15 and Lot C.
5. The plan must be considered as a whole. A written guarantee should be obtained that a car bridge will never be place across the Red Brook at Lot C.

Thank you for taking the time to consider these concerns. I look forward to your response.

Sincerely,

Mark Kassis  
19 Fomer Road  
Southampton, MA 01073  
527-6384

cc. Members of Conservation Commission

May 26, 2003

Southampton Conservation Commission  
Town of Southampton  
8 East Street  
Southampton, MA 01073

RE: Red Brook Estates Subdivision

Dear Conservation Commission Members:

The proposed Red Brook Estates subdivision will create several impacts to the resources of the Town of Southampton. The conservation commission is charged with determining whether or not the proposed project is significant to public or private water supply, to the ground water supply, to flood control, to storm damage prevention, to prevention of pollution, to protection of land containing shellfish, to the protection of wildlife habitat and fisheries, and to the protection of the riverfront area. The conservation commission also has the authority under MGL Chapter 40 Section 8C to acquire property as open space as it deems necessary for the protection of natural resources.

The following is a summary of my concerns regarding the proposed Red Brook Estates development:

**Red Brook Crossing**

The project plans indicate that Red Brook will be crossed via a culvert which is similar in nature to the culvert present at the crossing on Fomer Road. This crossing, however, will include two stormwater detention basins which will intercept surface water prior to discharge into Red Brook. The stormwater detention basins should be able to intercept some sediment which is discharged from the roadway, but will be incapable of removing dissolved nutrients, pollutants, and salt from the roadway. Discharges of these materials will directly impact Red Brook and the downstream resources areas such as bordering vegetated wetlands, bordering lands subject to flooding, and vernal pools.

Upon inspection of the crossing on Fomer Road, I identified areas of sediment discharge along the banks of the brook. These discharge areas were identified above the storm drain discharge pipes, indicating that they were a result of overland flow. Evidence of landscaping waste was also identified along the banks of the brook.

Evidence of sediment discharges is clearly evident at the terminus of Red Brook at Mill Pond. This sedimentation is most likely attributable to discharges at the Fomer Road crossing culvert. An additional crossing in this area, even with properly functioning detention basins, will only increase sedimentation downstream.

It is important to note that the Rivers Protection Act was written to prevent activities such as this from occurring. A political subdivision of the state (such as the Town of Southampton) is exempt from the performance standards associated with this act. This proposal, however, is not from the Town, but from a private developer who should be held to the performance standards for which the Act was written.

Once the structure and associated roadway are constructed, ownership and maintenance will be deferred to the Town of Southampton. Unlike most notices of intent, the applicant will no longer need to adhere to any order of conditions associated with the crossing, and the Town will only adhere to those conditions for which it can afford. Maintenance of the stormwater detention basins is essential in preventing sediment discharges to Red Brook. Because this is a private project, a performance bond or escrow account should be set up between the applicant and Town to ensure that resources are present for detention basin and roadway maintenance.

The applicant should also be held responsible for ensuring that the detention basins will prevent impacts to Red Brook and the downstream resources. The applicant should under order conduct water quality sampling upstream and downstream of the Red Brook crossing for a period of five years following development. Testing should be conducted at regular intervals (perhaps monthly), but should especially be conducted following rain events. Suggested parameters for water quality testing include temperature, conductivity, pH, turbidity, salinity, dissolved oxygen, and nitrates.

The project plans do not indicate the volume or nature of fill material which will be placed within the riverfront area to heighten the road grade to the top of the culvert structure. The fill should be tested prior to placement to ensure that it does not contain contaminants that could leach into Red Brook. Suggested testing parameters include volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), extractable petroleum hydrocarbons (EPH), polychlorinated biphenyls (PCBs), and the RCRA 8 Metals. The fill should be tested at regular intervals (every 5-20 cubic yards) and the results should be compared to the criteria established by the MADEP as presented in the Massachusetts Contingency Plan (MCP).

Other issues that the commission should consider include the kinds of erosion and sedimentation control measures will be taken to prevent this fill from eroding into Red Brook, and how much area which will need to be cut within the Riverfront Area upslope to lower the steep natural grade.

#### Natural Depression, Lot 15

On the date of the conservation commission site walk, the natural depression on proposed Lot 15 slated for use as a stormwater detention basin contained water. Although the area did not appear to support a vernal pool habitat, it may be considered to be an Isolated Land Subject to Flooding, and would therefore be regulated by the Massachusetts Wetlands Protection Act. The definition of an Isolated Land Subject of Flooding is as follows:

"Isolated Land Subject to Flooding is an isolated depression or a closed basin which serves as a ponding area for run-off or high ground water which has risen above the ground surface. Such areas are likely to be locally significant to flood control and storm ground damage prevention. Isolated land subject to flooding is without an inlet or outlet."

The natural depression appears to serve as a recharge area for the Barnes Aquifer. If the area was to be used as a stormwater detention basin, it would act as a sink for nutrients and pollutants entering the groundwater aquifer. The applicants consultant indicated that hydric soils are present at the bottom of the depression, indicating the presence of a seasonally high water table. During times of seasonally high water, the detention basin would provide no means of treating contaminants. During drier periods, the excessively drained nature of the soils would do little to filter out nutrients, pollutants and, salinity. The proposed leaching cells within the detention basins would only speed the discharge of contaminated water into the groundwater aquifer.

This area should be monitored for a period of time to determine whether it qualifies as an Isolated Land Subject to Flooding. For the purposes of protecting the public water supply and the groundwater supply, the area should not be used as a stormwater detention basin.

#### *Wetland Delineation*

The wetland delineation in the vicinity of the proposed crossing of Red Brook appears to be accurate. The plans, however do not show any delineated wetlands on the eastern portion of the property between where Red Brook re-enters the subject property and Mill Pond. There appear to be several bordering vegetated wetlands in this area, some of which support vernal pool habitat. The plans also are not clear as to whether the true edge of Red Brook was surveyed in the field. According to the applicants consultant, the wetlands in the vicinity of Mill Pond were not delineated. In this area, the 100' wetland buffer is not overlapped by the 200' riverfront area, and may not be an accurate depiction of the location of the actual 100' buffer. The consultant also indicated that there were other wetland areas on-site that were not delineated because no regulated activities were proposed in their vicinities.

It is important to realize that subdivision plans are usually in a constant state of change until final approval. Also, it is difficult for the conservation commission and applicant to determine the impacts of the crossing of Red Brook without being aware of what resource areas are present downstream of the activity. For these purposes, all of the wetland and other resource areas on the property should be delineated to ensure that no regulated activities will be occurring within the regulated areas, and the potential impacts to downstream resources are identified.

### Vernal Pools

Vernal pool habitat is present on the property downstream of the proposed crossing of Red Brook. The pools appear to fill with water as a result of flooding events along Red Brook, but may also be aided by groundwater. Amphibians which breed within vernal pools are extremely sensitive to changes in nutrient load, sediments and salinity. Although roadway runoff will primarily be discharged into the stormwater detention basins, increased nutrients, pollutants, and road salt will be discharged into the stream, and will impact vernal pool species. Stormwater detention basins will slow the rate of discharge and prevent some sediments from entering Red Brook, but will be ineffective in removing the dissolved constituents which will be present in the roadway discharge.

It is also important to realize that many vernal pool species, including but not limited to the wood frog and spotted salamander, are actually terrestrial species. They spend the majority of their life cycles within uplands, usually up to several hundreds of yards away from the vernal pools within which they breed. Because of historic development along Fomer Road, these species are limited to the south side of Red Brook for undisturbed habitat. Unfortunately, much of their habitat will be lost due to the proposed development.

In conclusion, it is clearly evident that this project is not consistent with the following objectives as set forth by the Wetlands Protection Act and the Rivers Protection Act:

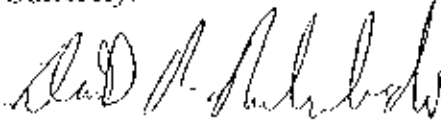
- To protect the public or private water supply;
- To protect the groundwater supply;
- The prevention of pollution;
- The protection of wildlife habitat and fisheries;
- The protection of the riverfront area.

The applicant has not provided adequate information regarding potential impacts to the above-mentioned objectives, and has not provided mitigation measures to prevent these impacts from occurring.

In accordance with MGL Section 40 Chapter 131, "In the case of riverfront areas, no order issued by a conservation commission, board of selectmen, mayor, or the department shall permit any work unless the applicant, in addition to meeting the otherwise applicable requirements of this section, has proved by a preponderance of evidence that (1) such work, including proposed mitigation measures, will have no significant adverse impact on the riverfront area for the following purposes: to protect the private or public water supply; to protect the ground water; to provide flood control; to prevent storm damage; to prevent pollution; to protect land containing shellfish; to protect wildlife habitat; and to protect the fisheries, and (2) there is no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on such purposes.

At this point an order of conditions should not be granted for this project. Before an order of conditions can be granted, the applicant should identify all of the resource areas which are present on the subject site, and conduct an impacts analysis on those resource areas to determine all of the potential impacts, feasible alternatives, and proposed mitigation measures.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel P. Rukakoski".

Daniel P. Rukakoski  
11 Fomer Road  
Southampton, MA

# HERITAGE SURVEYS, INC.

Professional Surveyors and Engineers

College Highway & Clark Street

Post Office Box 1

Southampton, Massachusetts 01073

Bruce A. Coombs, President  
Professional Surveyor, MA, CT & VT  
E-mail: bruce@heritagesurveys.com

Telephone (413) 527-3600  
Facsimile (413) 527-8280  
Website: heritagesurveys.com

## LETTER OF TRANSMITTAL

**TO:** Department of Environment Protection  
Attn: Susan Gillan  
Western Regional Office  
436 Dwight Street  
Springfield, MA 01103

**DATE:** May 2, 2003

**JOB #:** 4895-020917  
**DEP #** 289-142

**SUBJECT:** Red Brook Estates, Fomer Road & Gilbert Road  
Southampton, MA (response to file number)

### WE ARE SENDING YOU:

COPIES	DATE	PLAN #	DESCRIPTION
1	06/02/03		Letter of Response to the Notification of Wetland Protection Act File Number, sheets J - 5
1	03/17/03 revised 05/20/03	4895- 030520	Revised copies of sheets 4, 11, 16, 17, 19, 20, 24, 29, 30 & 32 of the Definitive Subdivision Plans for Red Brook Estates, Jim Boyle Construction
1			Overall Site Plan, which is not part of the Definitive Subdivision Plans
1	05/30/03	4895- 030530	Copy of an 11 x 17 plan entitled Proposed Compensatory Flood Storage Plan
1			Copy of an 11 x 17 sheet entitled, Brittney Lane Centerline Crown Grades Profile Showing Red Brook Crossing
1	05/30/03		Flood Storage Calculations sheet
1	05/29/03		TSS Removal Calculation Worksheet for the Natural Depression & Two Infiltration Basins
1	5/30/03		Hydrocad Drainage Calculation Sheets for Existing Drainage to the Natural Depression for the 1 year and 100 year storm event
1			Con/Span Technical Information
1	05/17/03		Letter prepared by Jim Boyle Construction with contracts for the purchase of land, estimate and assessors map
1			Preliminary Deed Restrictions for Parcels C, 15 & 34.
1	06/02/03		Letter prepared by John H. Fitz-Gibbon, Attorney at Law
1			Letter prepared by Alan M. Richmond, Ph. D. Herpetologist and his credentials

cc: ~~Southampton, MA, Department of Environment Protection~~  
Jim Boyle Construction (all above enclosures)  
Charles H. Dauchy (all above enclosures)

Conservation Commission  
Town of Southampton  
8 East Street  
Southampton, MA 01073

May 1, 2003

Dear Chairman,

I am writing to delineate our concerns about the Environmental and Conservation issues raised by the proposed "Red Brook Estates". The details of our concerns support the following concluding recommendations:

1. The only way to truly prevent disruption of sensitive wetlands, vernal pools and habitat is by not allowing the placement of proposed bridge over the Red Brook.
2. If the Conservation Commission is unwilling or unable to prevent placement of the bridge over the Red Brook, consideration of the following approaches will provide the next best protection to these sensitive habitats:
  - a. At a minimum negotiate a true conservation corridor protecting the environmentally sensitive areas along the Manhan River and the Red Brook. This should include both areas in the valley of the Manhan and Red Brook and 100 foot of contiguous upland area in the Davis Plain. This should include areas of Lot 15 and Lot C.
  - b. Request a covenant recommended by the Barnes Aquifer Protection Committee to protect abutting land from further development (written agreement that Mr. Boyle will not develop abutting land).
  - c. Decreasing the density of the proposed housing to protect the Barnes aquifer and adjacent sensitive wetland, riverfront and vernal pools from pollutants.
  - d. The plan must be considered as a whole. A written guarantee should be obtained that a vehicular bridge will never be placed across the Red Brook at Lot C.

The rationale supporting these conclusions fall into four categories:

Unique habitat and species

The detrimental environmental impacts of the proposal

Developer's apparent unwillingness to meet obligatory states mandates

Information provided by the developer is inaccurate and misleading

### Unique habitat

Protecting this area should be a true priority for the Conservation Commission. There is a large diversity of wildlife along Red Brook. The Red Brook corridor provides a wildlife corridor from the Mt. Tom Reservation through the Hazel Young Trail and the land preserved around the Tyngs-Carmody reservoir into the hill towns and the Berkshires. The area along the Manhan River is within the existing areas designated NHESP Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pools. This unique habitat extends up through the Red Brook corridor and is needed to protect multiple species.

### Environmental impacts

The proposed development would allow up to two houses to be developed very close (less than 200 feet) to the area currently mapped as Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pools. The development proposes placing a bridge across the Red Brook next to wetlands. Because this road is so steep it will require substantial salting. And this salt will be discharged next to the Red Brook and will be discharged in large volumes and affect the wildlife downstream along the Red Brook and Manhan River. Furthermore the adjacent land along the Red Brook provides similar habitat to the currently mapped Priority Habitats of Rare Species mapped downstream along the Manhan River and we believe the habitat along the Red Brook deserves further protection.

The corridor along the Red Brook contains at least two vernal pools with documented spotted salamanders and eggs and the documented threaten species. The threatened species and one of the vernal pools lie very close to the edge of Red Brook and may be destroyed by the salt run off from the road and bridge crossing the Red Brook. This corridor has also supported other important wildlife. There have been dens of breeding long tailed weasel, coyote and red fox and rare amphibians and reptiles. We have seen wood frogs and marbled salamanders and their eggs in this corridor. We have also seen wood turtles and box turtles.

We believe the proposed development including the bridge crossing of the Red Brook, the total density of houses and potential building (on lot 15) close to the designated Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pools all pose a substantial risk to this unique habitat, the threaten species and the vernal pools.

Furthermore any potential pesticides, herbicides and chemicals used by new housing development would ultimately run off into the Red Brook, the Manhan River and the Barnes aquifer. The construction along the Red Brook and increasing activity along the resource area will affect the banks of the Red Brook and increase silt in the Red Brook and Manhan River. The soils under most of these areas is provide good drainage but also

poorly absorb any potential pollutants allowing these pollutants to reach adjacent Red Brook, Manhan river, and the Barnes Aquifer. This would be occurring at a time where there is a substantial effort to reintroduce salmon into the Manhan River. The prior Fomer Road bridge reconstruction changed the course of the Red Brook and deposited substantial silt, which significantly altered the Manhan River at the Mill Pond. We believe that the proposed high density of housing in the "Red Brook Estates" is a threat to nearby wetlands and watercourses, has substantial environmental risks and would damage protected wetlands. These environmental issues should be addressed by the developer prior to acceptance of a subdivision plan by the Conservation Commission.

#### Developer's unwillingness to meet state mandates

The developer is required by HNHESP regulations to file a Notice of Intent with the NHESP. We understand that they only filed when the NHESP contacted the Southampton Conservation Commission that they had not received a Notice of Intent. The developer's statement that the development site and lot 15 is not contiguous with the HNHESP Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pools is wrong and purposefully misleading. Under the proposed plans, building on Lot 15 could be very close to the areas plotted by the NHESP as Priority Habitat of Rare Species.

#### Clarifying misinformation presented by the developer

Barnes Aquifer. Mr. Bruce Coombs in his letter dated April 8<sup>th</sup>, 2003 to the Planning Board made statements that we strongly believe are not true.

This letter states "there is not a connection between the aquifer under the Davis Plain and the Barnes Aquifer. We have spoken to Mr. Charles Darling, Chairman of the Barnes Aquifer Protection Advisory Committee who confirms the statement made in their attached January 9<sup>th</sup> letter to the planning board that "the proposed Red Brook Estates is in the prime recharge area for the Barnes Aquifer". This is confirmed by the attached state mapping of the Barnes aquifer. Therefore it remains the obligation of the Conservation Commission to make sure that the proposed development addresses the concerns of the BAPAC (letter attached) including compliance with nutrient loading.

The Barnes Aquifer Protection Advisory Committee also asked for that the plans address required BOH regulations for applicants to provide water quality assessment (including location of septic field in the plans and issues regarding garbage disposals, Storm water management, Pesticide, fertilizer, deicer impact and limiting damage from construction. Furthermore, "The BAPAC strongly suggests that abutting parcels are protected from further development"

The developer had been avoiding requirement to submit a Notice of Intent to NHESP. Lot 15 clearly allows development of at least two houses very close to the present polygon that delimits the Priority Habitat for Rare Species and Estimated Habitat of Rare Wildlife and Vernal Pools. Furthermore the intent of this required Notice of Intent is this

is a likely area with contains habitat and species that require protection. Indeed the habitat for rare and threaten species extends up the Red Brook and many of the species require the upland areas of the Davis Plane to survive. There are threatened plant species and vernal pools along the Red Brook below the planned bridge. Protecting this habitat should be the obligation of the Conservation Committee and the developer has demonstrated that they are attempting to avoid required state mandates.

Recommended options for addressing these concerns.

- 1 The only way to truly prevent disruption of sensitive wetlands, vernal pools and habitat is by not allowing the placement of proposed bridge over the Red Brook.
- 2 If the Conservation Commission is unwilling or unable to prevent placement of the bridge of Red Brook consideration of the following approaches will provide the next best alternative protection:
  - At a minimum negotiate a true conservation corridor protecting the environmentally sensitive areas along the Manhan River and the Red Brook. This should include both areas in the valley of the Manhan and Red Brook and 100 feet of contiguous upland area in the Davis Plain. This should include areas of Lot B and Lot C.
  - Request a covenant recommended by the Barnes Aquifer Protection Committee to protect abutting land from further development (written agreement that Mr. Boyle will not develop abutting land).
  - Decreasing the density of the proposed housing to protect the Barnes aquifer and adjacent sensitive wetland, riverfront and vernal pools.
  - The plan must be considered as a whole. A written guarantee should be obtained that a car bridge will never be place across the Red Brook at Lot C.

I thank you for taking the time to consider these concerns. I look forward to your response.

Sincerely,



Mark Kassis  
19 Fomer Road  
Southampton, MA 01073  
527-6384

RE: NOTIFICATION OF WETLANDS PROTECTION ACT FILE NUMBER DATE: May 9, 2003

MUNICIPALITY: SOUTHAMPTON

The Department of Environmental Protection has received a Notice of Intent filed in accordance with the Wetlands Protection Act (MGL c. 131, § 40).

APPLICANT: JIM BOYLE CONSTRUCTION OWNER: JAMES & PATRICIA BOYLE  
ADDRESS: PO BOX 290 ADDRESS: PO BOX 290  
EASTHAMPTON MA 01027 EASTHAMPTON, MA 01027

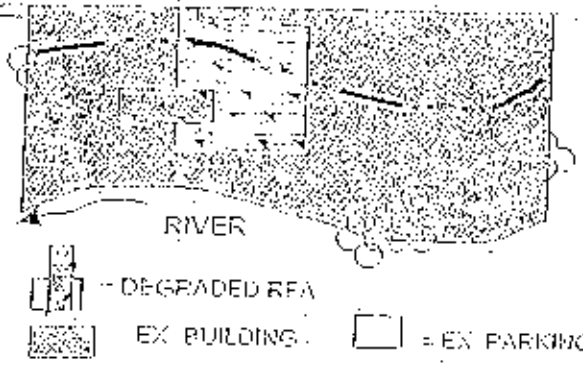
PROJECT LOCATION: POMER ROAD

IF CHECKED, THE FOLLOWING ITEM(S) APPLY TO THIS NOTICE OF INTENT: 289-142

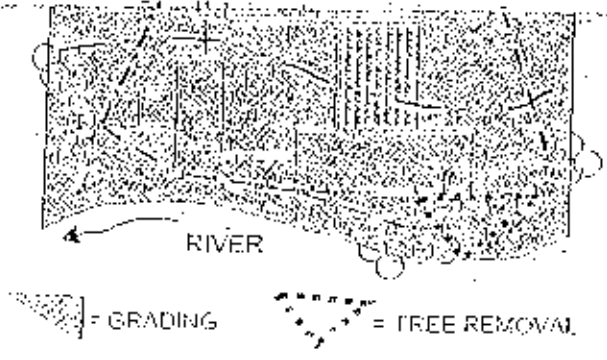
A  This project has been assigned the following file #: 289-142  
As proposed, the work described in the Notice of Intent fails one or more of the General Performance Standards found in 310 CMR 10.00. Supplemental data will be necessary to achieve full compliance. Failure to fully comply with the General Performance Standards may result in the denial of the project. Please review the following comments to assist in providing supplemental information to both the conservation commission and the DEP:

- The applicant has presented a request for a review as a limited project under the provisions found at 310 CMR 10.53(3)(e), the limited project allowing for access to uplands when no other alternative means is available. An alternatives analysis has been presented, however criteria found in 310 CMR 10.53(3)(e) has not been fully addressed in the NOI, including:
  - A full assessment on obtaining an ownership interest in other parcels, in particular along Gilbert Road. The applicant has secured one location along Gilbert Road and it may be practicable to obtain another location such that resource areas will not be impacted. Documented overtures that indicate an interest to purchase or the obtaining of an easement and the rejection or failure to respond to such overture. A practicable alternatives assessment should include a comparison of the costs to obtain another access point with the costs of constructing the stream crossing.
  - 310 CMR 10.53(3)(e) obliges the applicant to provide compensatory flood storage to the extent practicable; the applicant has requested a "waiver" from the requirement without providing information on the practicability of providing compensation. In addition, compliance with 310 CMR 10.57(4) is required under the General Performance Standards for Riverfront Area as discussed below.
- Alternatively, the applicant may consider a review under the provisions for redevelopment of previously developed Riverfront Area (310 CMR 10.58(a)); there appear to be locales that may qualify as "degraded" within the Riverfront Area as shown on the plans. A review under 310 CMR 10.58(5) may be the preferred permitting pathway, in that the alternatives review under the limited project section may require significant work to fulfill the alternatives analysis requirements. Guidelines on redevelopment of previously developed Riverfront Area have been attached to this form.
- The applicant has requested a "waiver" from the requirements to provide compensatory storage for a total of 8,836 cubic feet. There is no provision in the Regulations that allows for a waiver from this requirement. Please provide information such that full compliance with 310 CMR 10.57(4) is achieved. The applicant should submit information demonstrating why compensatory storage is not required, given that the applicant states that there will be no lateral displacement. Additionally, it appears that the 10-year floodplain and other extents of Bordering Land Subject to Flooding that are significant to wildlife habitat may be impacted. Please confirm the elevation at which the 10-year flood plain exists on the site and show it on the plans. The 100-year flood plain must also be shown on the plans, and should be commensurate with a fixed reference point (USGS datum or other commensurate source). As presented, the project narrative reference elevation 2.57 as being commensurate with the 100-year

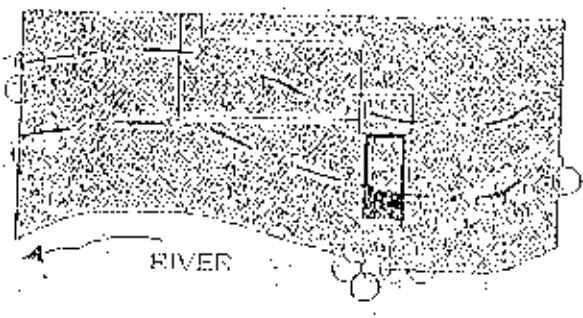
Graphic #1 - EXISTING CONDITIONS SITE PLAN.



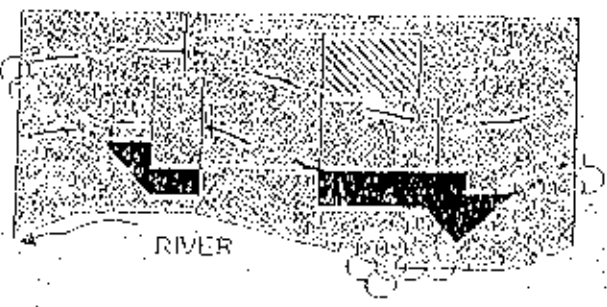
Graphic #2 - PROPOSED CONDITIONS SITE PLAN



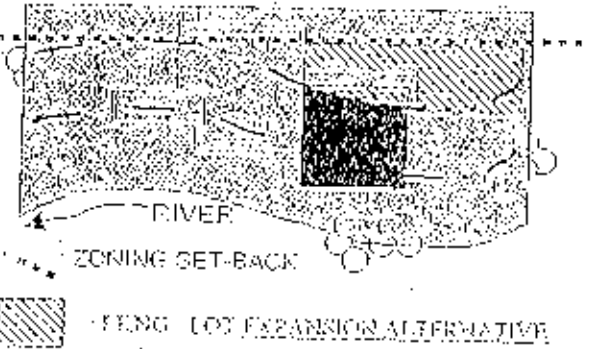
Graphic #3a - AREAS NOT IN CONFORMANCE WITH 10.58(5)(c)



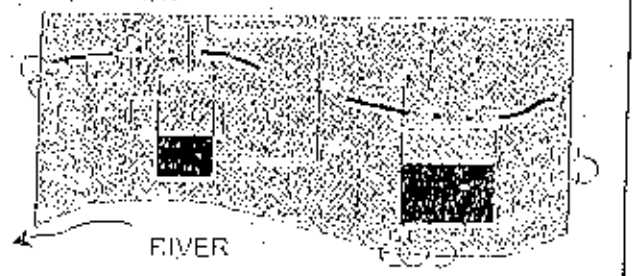
Graphic #3b - AREAS NOT IN CONFORMANCE WITH 10.58(5)(c)



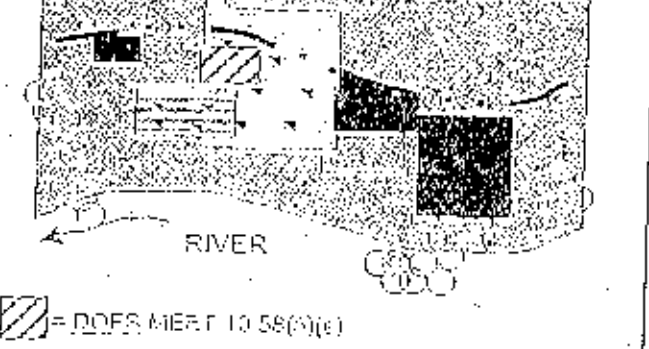
Graphic #4a - AREAS NOT IN CONFORMANCE WITH 10.58(5)(c)



Graphic #4b - AREAS NOT IN CONFORMANCE WITH 10.50(5)(d)



Graphic #5 - AREAS NOT IN CONFORMANCE WITH 10.58(5)(c) (EXISTING DEGRADED AREA: 10% REA)



LEGEND

- = EX. STRUCTURES
- = EX. PARKING
- = DEGRADED AREA
- = AREAS NOT IN CONFORMANCE WITH THE PROVISION
- = GRADING
- = TREE REMOVAL
- = 200' REA
- = 100' REA
- = EXISTING TREES
- = PROF. BUILDING
- = PROF. PARKING
- = DOES MEET 10.58(5)(c)

Jim Boyle Construction  
P O Box 290  
Easthampton, Ma 01027  
413-586-8561

May 17, 2003

Department Of Environmental Protection  
436 Dwight Street  
Springfield, Ma. 01103

Project Location: Fomer Road, Southampton, Ma 01073

Re: Alternative Location

Dear D E P

There is no practical and substantially economic alternative Access to the project. We are unable to obtain the land. We would need to obtain two parcels owned by several different individuals. We certainly tried to acquire the parcels (see attached agreements).

The first parcel is described as Parcel # 92 on the Southampton (see attached map) Assessors Map Sheet #28, containing 12.45 acres and owned by Michael J & Kathy J Lempke of Holyoke Ma. The second parcel is owned by the Gwinner Family of Southampton Ma. described as Parcel # 91A Sheet #28 of the Southampton Assessors Map.

We approached Mr Lempke early last Fall in 2002. We stopped by several times at his automotive garage in Holyoke, by phone and even met and took him around the site. It was very important to obtain the Lempke piece, we needed to go thru Lempke to get to the Gwinner Parcel. Without the Lempke piece there was no need to approach the Gwinners.

We offered Mr Lempke a four acre lot in the subdivision called Red Brook Estates. His Parcel is currently landlocked with an assessed value of \$6200.00. Mr Lempke purchased the parcel for \$19,000.00. The four acre lot Mr Lempke would have received at current market rate was valued at \$125,000.00.

We prepared a General Contract for Mr. Lempke (see attachment) and delivered it personally. He then said, the windfall profit to Gwinner warranted him the lot plus an additional \$150,000. We then approached the Gwinners with a proposal that if they would pay the \$125,000.00 for the lot Lempke was to obtain we would Deed over the 12.45 acre parcel to the gwinners for a 50ft strip for the roadway. We were also putting in 800 ft of

Roadway so the Gwinners would gain app. 3-5 Frontage Lots plus the 12.45 acre piece to develop more lots.

At that time there was a verbal agreement with one of the Gwinners. We drew up a General Agreement and presented it to the Gwinners. They then informed us they wouldn't pay.

Mr. Lempke then decided the Gwinners were getting a substantial windfall and dropped all negotiations and would not come back with a counter offer.

Mr. and Mrs. Lempke have been notified for all Public Hearings and have not attended any meetings for this project as of this date.

Not only could ownership interest be reasonably obtained due to cost, but also if someone doesn't want to sell their property they have that right.

Our cost to Mr. Lempke:

1 Lot @ 125,000.00

Additional \$150,000.00 Cash      Total \$275,000.00

The Gwinners Parcel (requesting a 50 ft. strip) our cost

App. 800 ft of road N/A

The gain to Gwinners 3-5 Frontage lots est. value \$320,000.00

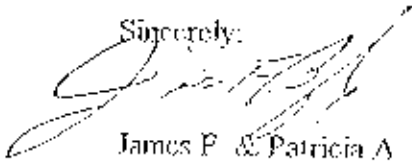
plus the 12.45 acre Lempke parcel for future development added to

his existing parcel total est. 30 acres with access in and out to future 10-15 future

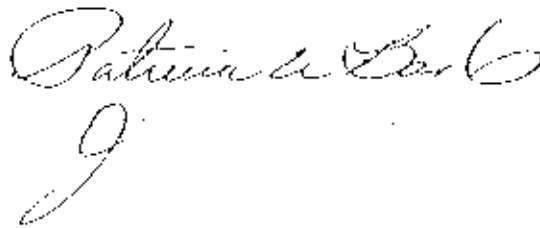
building lots. est. value \$300,000.00      Total combined est. value 620,000.00

At this point Mr. Lempke is not prepared to sell his property. All other locations on Gilbert Rd. have individual homes that are not on the market for sale and are not cost effective (see attached road and bridge cost estimated by Dietz Construction)

Sincerely,



James F. & Patricia A. Boyle



c.c. Southampton Conservation Commission  
Heritage Surveys

Nov 17, 2002

## GENERAL CONTRACT

The First Party's Names are James F. Boyle and Patricia A. Boyle, husband and wife of 38 Autumn Dr. Florence, Ma.

The Second Parties names are Richard Gwinner, Edward Gwinner and Ronald Gwinner of Southampton, Ma

James F. and Patricia A. Boyle will sell a Recorded Option, Recorded by The Registry of Deeds Granted to them by Michel J. Lempke for the parcel noted as Parcel # 92 on the Southampton Ma. Assessors Sheet # 28 Excluding the area needed for the Subdivision Road on the Definitive Red Brook Estates Plan

For the Sum of \$125,000.00 Richard, Edward and Ronald Gwinner will pay James F. and Patricia A. Boyle, in return for a Strip of Land Located on Parcel # 91 A Sheet # 28 of the Southampton Assessors Map. Said strip of Land will be described by The definitive Subdivision Plan Noted as Red Brook Estates.

**ROAD ALIGNMENT AND UTILITIES:** Both Parties must agree on Alignment to minimize the loss of Lots NO LESS THAN 40 within the existing Preliminary Plan noted as Red Brook Estates. First Party also has the right to reserve area for possible Retention Basin if needed for that section of the Road only on Parcel # 92

**ROAD CONSTRUCTION:** James F. and Patricia A. Boyle are responsible for the Road construction on the two parcels noted in the subdivision plan.

All Future utilities including Water Lines and valves, Gas, Electric Telephone, Cable ect will be paid by the Gwinners

The new road leading off of Parcels # 92 and Parcel # 91 A will have water and drainage only. The Gwinners will be responsible for their own Utilities

This Agreement Will become an Option Drawn by a Legal Attorney and recorded by the Registry of Deeds. This agreement must coincide with the Lempke Option.



Nov 18, 2002

GENERAL AGREEMENT

First Partys' Names are James F. Boyle and Patricia A. Boyle of 38 Autumn Dr. Florence Ma

The Second party is Michael J. Lempke of Holyoke Ma

This is an agreement made between James F. and Patricia A. Boyle to Option a piece of property owned by Michael J. Lempke Described as Parcel # 92 on The Southampton Assessors Map sheet # 28

In return for the Option James F. and Patricia A. Boyle will Deed a piece of property described as Lot # 20 in the Preliminary Subdivision Plan Called Red Brook Estates in Southampton Ma. Containing an estimated 4 Acres. See attached Addendum A

This Option is contingent upon Full Final Approval of the Definitive Subdivision Plan Know as RED BROOK ESTATES.

The final Option will be drawn up by A Legal Attorney that both partys' will agree upon and be recorded in The Registry of Deeds upon acceptance of this agreement

In The Event the Lot area or number changes Noted as Lot # 20 in the preliminary plan due to the change in Road Entrance between the Lempke and Gwinner Piece. Both Partys' will agree to a comparable Lot in the same general area and estimated sq. footage

The option will be exercised upon Full Definitive Approval of the said Subdivision.

This agreement is to be Accepted with modification by the Legal Attorney of Both Partys' if need be. Both Partys' must execute this preliminary agreement by no later than 3:00p.m. Nov 21, 2002

James F. Boyle	Date	Michael J. Lempke	Date
Patricia a. Boyle	Date		