

Memorandum

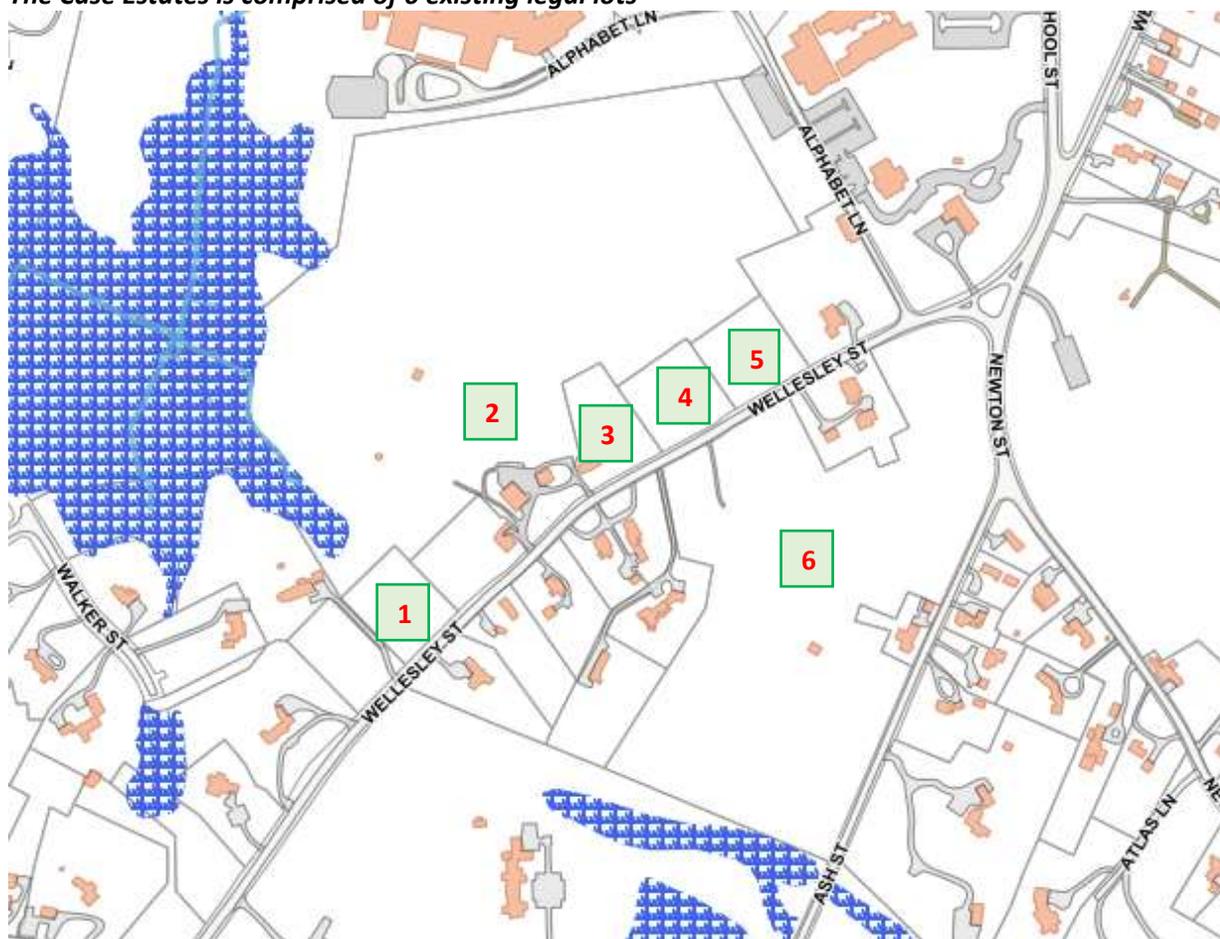
To: Weston's Select Board
From: Michael Harrity
Re: Update on the Case Estates
Date: October 28, 2020
CC: Leon Gaumont, Town Manager; Katie Klein, Esq.

This memo is a follow-up to an October 20 Zoom conference call with Select Board Member Bent and town staff and a representative from Weston Forest & Trail to review the outstanding items for the wrap up of the Case Estates work and completion of the formal subdivision process there. It is intended now to inform and get feedback from the full Select Board on the work described below.

1) THE CASE ESTATES SUBDIVISION PROCESS

On June 8, 2016, following completion of the property's hazardous materials remediation and acceptance of that work by MassDEP, Weston acquired the 62.5-acre Case Estates from Harvard / The Arnold Arboretum for \$13,740,000. The Case Estates encompasses 6 legal lots as shown below and the town needs to subdivide this property to conform to the parcel plan presented when the C.P.A. and municipal appropriations for the acquisition were approved by Special Town Meeting on November 8, 2006. That town-approved parcel plan is also shown below.

The Case Estates is comprised of 6 existing legal lots



The 9 Parcel Plan for the Case Estates

Approved at S.T.M on 11/08/06

Parcels 1 & 2 & 6a:
to be acquired as
Open Space with
CPA funds

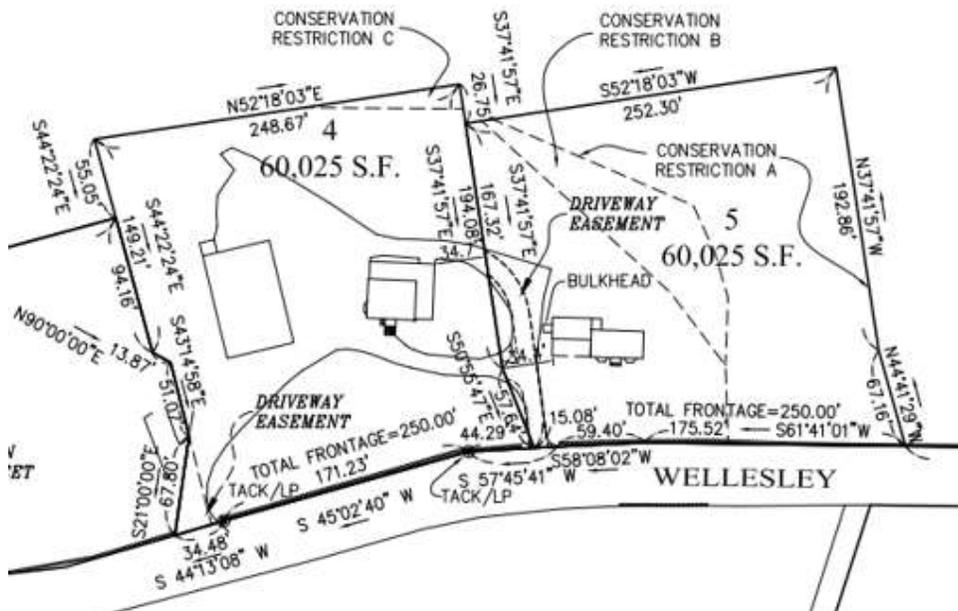
Parcels 7 & 8:
to be
considered for
municipal use.

Parcels 3,4,5,6 & 9:
to be sold for
residential use if
private funds to
preserve them as
open space cannot
be raised.



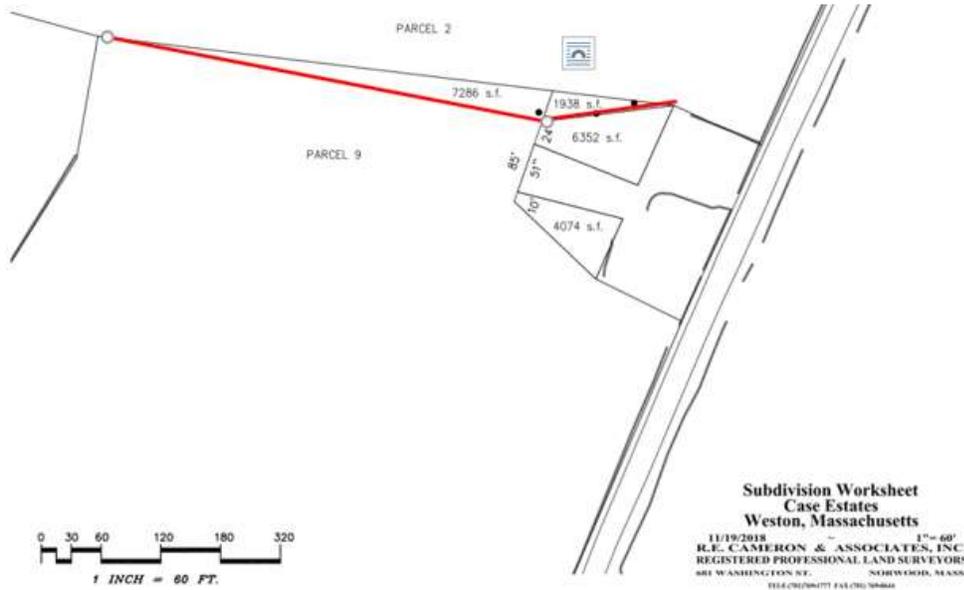
PARCELS 4 AND 5

On the northwest side of Wellesley Street, the town's-designated parcels 3 and 6 already exist as legal lots. Weston's Parcel 1 (approximately 18.9 acres) was purchased with C.P.A. funds as open space while Weston's parcels 4, 5, 6 (each 1.39 acres) and parcel 7 (about 15 acres) were purchased with municipal funds. Weston's parcel 8 (1.4 acres) is also a municipal parcel and it was acquired in 2014 (with funds from the 2006 appropriation) via eminent domain as an addition to the town-owned, abutting Case Campus. When subdivided parcel 7 will also become a part of the town's Case Campus. Weston's parcels 4 and 5 are to be created out of existing lots on which are pre-existing, non-conforming buildings due to their encroachment on current-zoning setback areas. Town Counsel, K-P Law, has opined that these lots can be formed via an A.N.R. process with the Planning Board and the survey below shows the configuration of those new lots. These lots will be encumbered with conservation restrictions to preserve the viewscape, which was named the "Hillcrest Corridor" by the town-formed committee, Chaired by Kay McCann, that recommended the division between municipal and open-space land at the Case Estates.



226 ASH STREET

The Ash Street side of the Case Estates exists as a single 21.7 acre lot which is to be almost evenly divided into C.P.A. open space on the north portion (Parcel 2) and municipal land on the south half (Parcel 9). When Weston acquired this land there were two existing encroachments by the owners of 226 Ash Street and it is proposed that two small pieces of municipal land be sold to these owners to resolve the encroachments. This transaction is more fully described in another memorandum and it needs to be completed in connection with the subdivision process. The survey snippet below shows the proposed parcels to be sold to the owners of 226 Ash Street and, in red, the dividing line between the open space and municipal land.

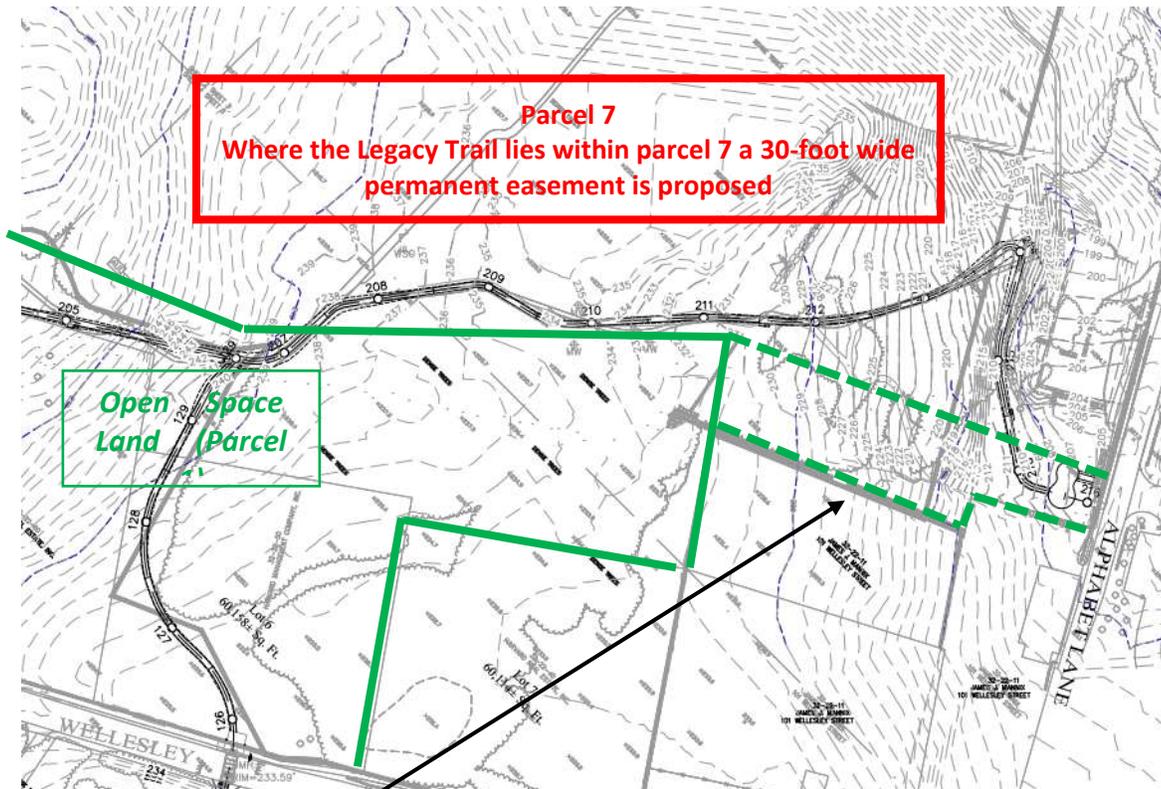


As the density proof plan below confirms, the remaining municipal land in Parcel 9 could still be sold for development of 6 zoning-compliant house lots as contemplated when the dividing line between open space land and municipal land was determined.



THE LEGACY TRAIL

The Legacy Trail, which was funded with the C.P.A. appropriation for the Case Estates, is, finally, nearing completion. The layout was set to conform with the state's accessible trail guidelines which limit the slope and requires appropriately-spaced resting spots. These resting spots have granite benches which were donated as a part of the town's 2013 tercentennial celebrations. The northern-most section of the Legacy Trail connects the "Hillcrest Corridor" to Alphabet Lane and in the 2006 Case Estates' parcel plan this connection was anticipated via a panhandle. Dealing with the existing topography and the desire to minimize cutting down mature trees required a switchback and a more meandering path, which could not fit within the anticipated panhandle. Instead, the open-space-designated land will be reconfigured as a permanent easement over municipal land (Parcel 7) stretching 15 feet on either side of the now-completed trail. This reconfiguration and the permanent easement need to be accomplished as a part of the subdivision plan.



LOUISA'S WALL

On the western border of 101 Wellesley Street (abutting Weston's Parcel 7) is Louisa's Wall, a roughly 240 foot-long 10-foot-high wall over 4 feet wide and constructed over 100 years ago with very large field stones. It appears that the boundary line between town-owned land and the 101 Wellesley Street property owned by Rebekah and James Mannix is the centerline of Louisa's Wall. A portion of the wall has collapsed and Jim Mannix has secured a written repair estimate is \$22,500. Mannix has stated that he would pay for the repairs if he owned the wall but if it is jointly owned then those repair costs should be borne equally. We suggest that as a part of the subdivision process any portion of the wall owned by the town be deeded to Mannix with a requirement that the owners of 101 Wellesley Street are required to maintain it permanently.

2) ACCOUNTING FOR THE CASE ESTATES APPROPRIATIONS

The spreadsheet below shows how the 2006 appropriations have been spent to date and it also shows the estimated costs of completing committed and required work.

CASE ESTATES, WESTON, MA		Last Updated on:	10/28/2020
<i>Costs to Date and Other required Costs</i>			
<i>Compiled by Michael Harrity with account data from Susan Kelley and Charlie Young</i>			
Category	C.P.A. Funds	Municipal Funds	
Nov 8, 2006 STM Appropriation	\$8,920,000	\$14,480,000	
Rescinded AT Nov 29, 2010 STM	(\$1,185,667)	\$0	
NET APPROPRIATION	\$7,734,333	\$14,480,000	
Rescinded Debt:	\$0	(\$6,065,000)	
Acquisition Price	\$6,600,000	\$7,140,200	
Closing Costs & Adjustments	\$1,812	\$42,909	
TOTAL ACQUISITION COST	\$6,601,812	\$7,183,109	
OTHER COSTS PAID TO DATE:			
Appraisals	\$0	\$5,500	
Legal Costs	\$83,503	\$157,029	
Environmental Consulting Fees	\$68,639	\$236,847	
Architectural Fees	\$11,000	\$2,500	
Landscape Design Fees	\$25,827	\$33,214	
Engineering Consultant Fees	\$0	\$8,900	
Surveys	\$17,374	\$23,262	
Demolition of Outbuildings	\$3,500	\$7,830	
Stabilize Existing Buildings	\$0	\$14,677	
Environmental Clean-up Costs	\$0	\$260,145	
Clearing Trees & Invasives	\$41,180	\$13,160	
Mowing to Control Invasives	\$29,040	\$12,110	
Tree Plantings	\$52,013	\$19,238	
Legacy Trail Contract Documents	\$22,325	\$0	
Interest on Deposit	(\$2,651)	(\$2,656)	
Insurance	\$0	\$26,659	
Miscellaneous	\$903	\$1,142	
TOTAL OTHER COSTS PAID TO DATE:	\$352,652	\$819,558	
Paid as of March 18, 2019:	\$6,954,464	\$8,002,666	
03/18/2019 BALANCE:	\$779,869	\$412,334	
Legal			
Environmental Consulting	\$0	\$36,500	
Trail Design & Engineering	\$81,072	\$0	
PaverArt Etc.	\$10,845	\$0	
Case North Trail Costs - Vozzella	\$334,384	\$10,000	
Case North Trail Costs - Cataldo	\$191,312	\$0	
Ecological Management Plan (EMP)	\$10,000	\$0	
Legal	\$0	\$2,319	
Insurance	\$0	\$18,131	
Surveys	\$0	\$3,500	
Misc Adjustments	\$246	\$125	
COSTS PAID 03/19/2019 - 09/20/2020	\$627,858	\$70,574	
Paid as of September 20, 2020:	\$7,582,322	\$8,073,241	
10/01/2020 BALANCE:	\$152,011	\$341,759	

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10/01/2020 BALANCE:	\$152,011	\$341,759
OTHER REQUIRED OR RECOMMENDED COSTS		
<i>Category</i>	<i>C.P.A. Funds</i>	<i>Municipal Funds</i>
Remaining on Legacy Trail Contract	\$40,000	\$0
Additions to Legacy Trail Contract	\$15,000	\$0
EMP Phase 1 Implementation:	\$15,000	\$0
Legal Fees for Subdivision and Easements:	\$10,000	\$10,000
Added Survey Work	\$6,000	\$6,000
Existing Conditions Plans for 4 & 5:	\$0	\$8,000
Appraisals:	\$0	\$16,000
Preparation of Conservation Restrictions:	\$4,000	\$0
Preparation of Preservation Restrictions:	\$0	\$6,000
RFP Issuance Costs:	\$0	\$4,000
Remedial Work on the buildings:	\$0	\$150,000
Water and Utility Stubs for Buildings:	\$0	\$20,000
Signage	\$6,000	\$4,000
Miscellaneous and Contingency:	\$6,011	\$12,759
TOTAL ADDED COSTS:	\$102,011	\$236,759
REMAINING UNCOMMITTED BALANCE:	\$50,000	\$105,000

As the figures above show, there remains a number of relatively small but important expenditures to complete the acquisition of and capital improvements to the Case Estates. Even as these final capital costs are incurred and paid, the Conservation Commission has the ongoing responsibility of maintenance and their FY 2022 budgets will reflect those costs.

3) THE SALE OF PARCEL 4 (THE SCHOOL AND BARN LOT) AND PARCEL 5 (THE RAND HOUSE LOT)

The sale of the 2 lots-to-be-created and 3 historic buildings thereon was anticipated at the 2006 town meeting vote for funds to acquire the Case Estates. The need to sell these two properties as soon as practical has become clearer since then for three reasons:

1. The town has not identified any practical or cost-effective need for these buildings;
2. These historic buildings have been unoccupied for over 20 years now, they are continuing to deteriorate, and the Rand House built in 1790 could become beyond repair if left untended for much longer; and
3. MassDOE has confirmed that the waste water outflow from the use of any one or all three of these buildings by Weston would trigger a Title 5 statutory requirement that Weston to install a waste water treatment plant serving these buildings and all of the Case Campus and the Brook School Apartments.

It is anticipated that these two properties could be ready for sale, via RFP as required by statute, in late spring 2021. This schedule assumes that:

1. the subdivision moves ahead without delay or snags;
2. ConCom expeditiously completes the proposed conservation restrictions which are then approved by the Select Board. The restrictions would be activated upon sale of the property and held for the benefit of the Town of Weston;
3. The historic preservation restrictions also move ahead expeditiously on terms proposed by the Historical Commission and reviewed and approved by the Select Board; and
4. Any work on the buildings deemed absolutely necessary to put each building into a condition that allows for, or dramatically enhances the attractiveness for, a sale has been completed.

Weston's Chief Assessor, Eric Josephson has opined that the free and clear market value of each of these lots without any conservation restrictions and preservation restrictions is \$787,100. Further Josephson has

estimated that imposing conservation restrictions and requiring the restoration and maintenance of the exterior front façade of the buildings will reduce the market value of the properties by about half to \$395,000 each. My own estimate is that we should expect even lower bid responses to an RFP due to two further constraints on these properties:

1. The pre-existing non-conforming buildings on each property trigger a need for a finding from the Zoning Board of Appeals that any addition or changes to the improvements does not make the nonconformity more detrimental; and
2. Since Wellesley Street is a designated Scenic Road in Weston, a site plan review and approval from the Planning Board is required.

It is possible for the Historic Commission and Select Board to seek C.P.A. funding which will compensate the town’s municipal account for the loss in value caused by the imposition of the conservation and historic preservation restrictions. If this funding source is desired, a submission must be made to the town’s C.P.C. by no later than January 2021 and then approved by Annual Town Meeting in May. The Select Board is reminded that the 2006 presentation of the Case Estates purchase anticipated that further C.P.A. Funds in the amount of \$715,000 might be requested for conservation and preservation restrictions.

BOTTOM LINE

The financial impact of the Case Estates purchase on Weston has changed significantly from the November 2006 Special Town Meeting approval of a \$22,500,000 cost. The biggest factor in the delays and the changes has been caused by the discovery of extensive contamination with pesticide residues and the disagreements and lawsuit over the appropriate clean-up by Harvard and the resulting purchase price. Here is the slide in my November 2006 presentation which showed the expected bottom line:

<u>EXPECTED BOTTOM LINE</u>	
PURCHASE PRICE FROM HARVARD:	\$22,500,000
OTHER COSTS:	\$900,000
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<u>TOTAL 2006 INVESTMENT</u>	\$23,400,000
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INITIAL INVESTMENT OF CPA FUNDS	\$8,920,000
FUTURE RESTRICTIONS ON PARCELS 4 & 5:	\$715,000
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<u>EXPECTED TOTAL CPA INVESTMENT</u>	\$9,635,000
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INVESTMENT FROM GENERAL FUNDS (B.A.N.S):	\$14,480,000
RE-SALE PROCEEDS (Parcels 3,4,5,6 & 9):	(\$8,000,000)
OFFSET FOR CPA RESTRICTIONS:	(\$715,000)
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<u>NET NEW BONDS (Lots 7 & 8)</u>	\$5,765,000

A subsequent “Hybrid Plan” with a partial cleanup and a \$3,000,000 price reduction was approved in the May 2010 Town Meeting. The hybrid plan included price adjustments for remediation where the subsequent use was restricted to passive uses and construction of any improvements was excluded. The lawsuit with Harvard resulted after their late discovery of additional pesticide contamination especially and unexpectedly within the Pine Woods (parcel 7) and Harvard’s subsequent decision to unilaterally terminate the purchase and sale contract. The allocation of the final settlement purchase price with Harvard is shown below:

CASE ESTATES, WESTON, MA
ALLOCATION OF THE PURCHASE PRICE
ALLOCATION TO SUBPARCELS

Compiled by Michael Harrity

Parcel #	Parcel Name	Acres	Originally Allocated Cost	Allocation of 2010 Price Reduction	Allocated Cost under 2010 "Hybrid Plan"	Allocation of 2015 Price Reduction	Allocation After Lawsuit Settlement*
1	Hillcrest Corridor North	18.9	\$4,760,000	(\$582,773)	\$4,177,227	(\$577,227)	\$3,600,000
2	Hillcrest Corridor South	10.7	\$3,740,000	(\$457,893)	\$3,282,107	(\$282,107)	\$3,000,000
3	South ANR Lot	1.4	\$960,000	\$0	\$960,000	(\$240,000)	\$720,000
4	Barn & School House Lot	1.6	\$960,000	\$0	\$960,000	(\$240,000)	\$720,000
5	Thomas Rand House	1.4	\$960,000	\$0	\$960,000	(\$240,000)	\$720,000
6	North ANR Lot	1.4	\$815,000	(\$677,000)	\$138,000	\$2,000	\$140,000
6a	Preservation Restriction	N/A	\$145,000	(\$145,000)	\$0	\$0	\$0
7	Pine Woods*	14.8	\$4,480,000	\$0	\$4,480,000	(\$3,000,000)	\$1,480,000
8	Alphabet Lane Parking	1.4	\$400,000	\$0	\$400,000	(\$39,800)	\$360,200
9	Ash Street Parcel	11.0	\$5,280,000	(\$1,137,333)	\$4,142,667	(\$1,142,667)	\$3,000,000
TOTAL:		62.5	\$22,500,000	(\$3,000,000)	\$19,500,000	(\$5,759,800)	\$13,740,200
C.P.A.			\$8,645,000	(\$1,185,667)	\$7,459,333	(\$859,333)	\$6,600,000
			\$286,581 per acre		\$251,495 per acre		\$218,169 per acre
MUNICIPAL:			\$13,855,000	(\$1,814,333)	\$12,040,667	(\$4,900,467)	\$7,140,200
			\$421,253 per acre		\$366,089 per acre		\$221,757 per acre

*Land with use limited to passive recreation with an A.U.L. was valued at \$100,000 per acre. The value of unencumbered land is based on market comparable sales recognizing the value of buildable lots, the cost of infrastructure and the sell-off timing.

The bottom line of the final accounting is shown here:

CASE ESTATES, WESTON, MA		Last Updated on:	10/26/2020
Costs to Date and Other required Costs		Compiled by Michael Harrity with account data from Susan Kelley and Charlie Young	
Category	C.P.A. Funds	Municipal Funds	
Nov 8, 2006 STM Appropriation	\$8,920,000	\$14,480,000	
Rescinded AT Nov 29, 2010 STM	(\$1,185,667)	\$0	
NET APPROPRIATION	\$7,734,333	\$14,480,000	
Rescinded Debt:	\$0	(\$6,065,000)	
NET APPROPRIATION		\$8,415,000	
Cash Expended:	\$2,734,333		
Borrowing:	\$5,000,000	\$8,415,000	
Acquisition Price	\$6,600,000	\$7,140,200	
Closing Costs & Adjustments	\$1,812	\$42,909	
TOTAL ACQUISITION COST	\$6,601,812	\$7,183,109	
Other Capital Costs:	\$1,082,521	\$1,126,891	
Uncommitted Capital:	\$50,000	\$105,000	
Estimated Sale Value of Excess Municipal Parcels:			
Parcel 3:		\$0	
Parcel 4:		\$350,000	
Parcel 5:		\$250,000	
Parcel 6:		\$0	
Parcel 9:		\$3,000,000	
Potential Re-Sale Proceeds:		\$3,600,000	
Net Investment:	\$7,734,333	\$4,815,000	