



Ivria G. Fried
T: 617.804.2427
40 Grove Street, Suite 190
Wellesley, MA 02482
ifried@miyares-harrington.com

April 10, 2023

Kate Hodges
Town Administrator
Lancaster Town Offices, Prescott Building
701 Main Street
Lancaster, MA 01523

Re: Lancaster Town Green Property and Memorial School

Dear Kate,

We have been asked to review the Town's ownership of the Town Green Property (Assessors' Parcel 34-91), with a particular emphasis on the portion on which the Memorial School is situated, and to provide an assessment of the present status of any restrictions or limitations on the uses to which the property may be put. As discussed below in detail, the portion of Assessors' Parcel 34-91 at issue is restricted for recreation and playground purposes.

HISTORY OF THE PROPERTY

a. The Thayer Bequest

Lancaster Assessors' Parcel 34-91 is owned by the Town, has an area of approximately 23 acres, and is comprised of multiple, formerly distinct parcels of land that the Town acquired through series of gifts or other conveyances. This review is confined to the parcel of land which was gifted to the Town as a bequest of the Estate of Pauline R. Thayer.¹

By virtue of the first codicil to her will² the Estate of Pauline R. Thayer devised a gift of land to the Town by the following language:

¹ While the scope of this review is limited to the Thayer bequest, I advise the Town to commission a review of the title to all of the property which comprises Assessors' Parcel 34-91, and to engage a land surveyor and engineer to prepare a plan which identifies each separately obtained parcel. Additionally, I recommend that a plan be prepared which establishes new property lines to distinguish independent municipal uses of property which may have particular use limitations or are held in the care, custody, management, and control of varying municipal boards. This review and organizational restructuring would provide clarity with respect to the use and management of this parcel and help to avoid future uncertainty. I am happy to discuss this proposal in more detail if you wish.

² A copy of the First Codicil to the Will of Pauline R. Thayer is attached hereto as Exhibit A.

I give and bequeath to the Town of Lancaster all of the real estate leased to the Nathaniel Thayer Playground Association by me by lease date December 19, 1912, and recorded with Worcester Deeds, Book 2016, Page 426, together with the Gymnasium Building. The furniture, fixtures and other outfit of personal property used therewith at the time of my death (except, however, the building known as the “Old Inn” and certain land adjoining, and subject to a certain right of way appurtenant thereto, all as specifically devised hereafter by this codicil) to be used by the said town for the purposes of providing a proper and adequate recreation and playground center for the inhabitants of the Town of Lancaster or other succeeding municipality which shall contain within its boundaries the major portion of the Town of Lancaster. This property is to be always known as the Nathaniel Thayer Playground in memory of my late husband. (Emphasis added)

The land described in the bequest is shown on a plan of land entitled “Land in Lancaster, Mass. Belonging to Pauline R. Thayer,” dated April 1911, and recorded with the Worcester Registry of Deeds (“Registry”) at Plan Book 22, Plan 38 (the “1911 Plan”),³ and is described by metes and bounds in the referenced lease, dated December 19, 1912, and recorded with the Registry at Book 2016, Page 426 (the “Thayer Playground Lease”).⁴ The Thayer Playground Lease states the area of leased property to be 18.9 acres more or less.

As stated in the bequest, Thayer devised a portion of the land described in the Thayer Playground Lease—the Old Inn property—to the Lancaster Social Services Association. This property, described as being approximately 16,440 square feet (0.377 acres), is shown on a plan of land entitled “Plan of Land on Harvard Street in Lancaster Mass. Surveyed for Pauline Thayer,” dated August 31, 1934, and recorded with the Registry at Plan Book 81, Plan 15 (the “1934 Plan”).⁵

Considering the terms of the bequest together with the property descriptions in the Thayer Playground Lease and the depictions of land on the 1911 Plan and the 1934 Plan, it appears the bequest gifted the Town approximately 18.52 acres in a location shown approximately on an outline prepared by my office and attached hereto as Exhibit E (hereafter the “Thayer Land”).⁶ The terms of this gift provided that it was to be used for recreation and playground purposes, and this intended use limitation is discussed in detail below.

³ A copy of the 1911 Plan is attached hereto as Exhibit B.

⁴ A copy of the Thayer Playground Lease is attached hereto as Exhibit C.

⁵ A copy of the 1934 Plan is attached hereto as Exhibit D.

⁶ Please note that this is not an official or surveyed plan. It is merely a rendering of what I believe to be the approximate area of the land bequeathed to the Town.

b. The Memorial Elementary School

In the mid 1950s the Town determined to locate a new elementary school partially situated on the Thayer Land.⁷ Seemingly in recognition of the use limitation defined in the bequest of the Thayer Land, in 1956 the Town obtained two releases from the House of the Good Samaritan and the Massachusetts General Hospital who identified themselves as the residuary legatees (the remainder beneficiaries) of the will of Pauline Thayer (the “Releases”).⁸ The Releases purport to release a one acre portion of the Thayer Land from the “restrictions” in the bequest to the Town “in so far as the grantor has the legal right to do so.” The area of land identified in the Releases was described as follows:

One acre, more or less, and bounded on the east by the brook, on the south by land of the Town of Lancaster, on the west by land of the Unitarian Church and on the north by Harvard Street; intending to release and hereby releasing the land lying westerly of the brook which flows through the devised premises.

The school was constructed, and in 1957 the Town held a dedication ceremony for the new Lancaster Memorial Elementary School.⁹ The location of the Memorial School is consistent with the imprecise description used in the Releases, and the outline of the school as it sits within the Thayer Land can be seen in the approximate boundary outline attached as Exhibit E.

LIMITATIONS ON THE USE OF LAND

a. Statutory and Case Law Limitations on the Use of Land

While there are numerous different types of limitations and restrictions on land, here, the doctrine of public charitable trusts and Article 97 of the Massachusetts Constitution apply. I will address each in turn.

i. Public Charitable Trusts

A gift of land can impose a variety of conditions or limitations on its use by the donee, and the particular language used in the gift dictates the specific form those limitations will take from a legal perspective. Notably, where a gift is by its terms intended to be held in perpetuity for the benefit of the public, the result is the creation of a “public charitable trust,” by which the Town holds the gift in perpetuity as a trustee for the benefit of the public subject to the conditions defined in the grant.

⁷ See proposal for new elementary school dated December 1, 1955 and attached hereto as Exhibit F.

⁸ Attach releases Exhibit G

⁹ Attach school dedication info Exhibit H

The Supreme Judicial Court (“SJC”) has addressed charitable gifts to municipalities which result in the creation of trusts for the benefit of the public. In *City of Salem v. Attorney General*, 344 Mass. 626 (1962), SJC reviewed a bequest of 21 acres “to the City of Salem to be used forever as Public Grounds for the benefit and enjoyment of the citizens of said City.” 344 Mass. at 627. The acceptance of the bequest by the city in 1896 was determined to be “a contract between the donor and donee which must be observed and enforced.” *Id.* at 631. The Court further determined that a 1957 special act authorizing the land to be used for school purposes “is at variance with the use for which the city holds the land, it impairs the obligation of the contract, and affords no right to the school committee to use the land for school purposes.” *Id.*

In *Dunphy v. Commonwealth*, 368 Mass. 376 (1975), the SJC reviewed a bequest of 3.64 acres to the Town of Rockland “to be kept and used as a Public Park in perpetuity for the public good and to be called the Maj. Edward P. Reed Park.” 368 Mass. at 377. Referencing *City of Salem*, the Court found that the Town “obtained and held title to the land under circumstances which made the land subject to a public charitable trust requiring that the land be used only for the purposes of a public park without any power in the Legislature to authorize or require the town to divert the trust property to other uses or purposes...” *Id.* at 382. The Court also stated provisions of G.L. c. 184, §§26, 28, which may render restrictions on the use of land unenforceable after a certain time period, “do not by their terms purport to limit the life of a public charitable trust or to limit the time within which legal proceedings to enforce the rights of the public thereunder may be commenced.”¹⁰ *Id.* at 384.

Finally, in *Opinion of the Justices to the Senate*, 369 Mass. 979 (1975), the SJC considered 15 acres of park land deeded to the City of Revere, and discussed the language used in a gift or conveyance which may create a public charitable trust. 369 Mass. at 981-982. Referring to *Dunphy* and *City of Salem* the SJC stated:

It is clear from this language that the grantors in each of these cases intended to create trusts in perpetuity for the public benefit. No provision was made for a disposition of the granted tracts should some use other than for a public park be attempted. The failure to provide for a reversion to or a right of entry in the grantor or his heirs, successors or assigns indicates quite clearly that no use other than for park purposes was contemplated or sanctioned by the contracting parties.

Id. at 984.

Read together, these cases support the proposition that a public charitable trust cannot be released by legislative action. Once a public charitable trust has been created it can only be release by an order of the Probate and Family Court in a proceeding known as “cy pres” which I will address in detail below.

¹⁰ I note here that opinions of prior counsel which discussed the Thayer Land in terms of restrictions subject to Chapter 184, is inapposite in the case of a public charitable trust. Attach Opinion, Exhibit I

ii. *Article 97*

Article 97 of the Massachusetts Constitution, adopted in 1972 provides that public land devoted to public use for conservation, open space, and recreational purposes cannot be diverted to a different use without a two-thirds vote of both houses of the State Legislature. This limitation on the disposition of land in public use became effective in 1972, and applies to all municipal property that was held for public use at that time, or which was thereafter dedicated to such purpose. *See, Smith v. City of Westfield*, 478 Mass. 49 (2017) (playground which may require development on public lands, is a use of land which will trigger the protective effects of Article 97).

b. *Application to the Thayer Land*

Having reviewed the terms of the bequest of the Thayer Land to the Town, it is my opinion that the bequest established a public charitable trust which was not affected by the Releases, and in 1972 the entirety of the Thayer Land became subject to the protections of Article 97. I will address each of these conclusions in turn.

Reviewing the bequest of Pauline Thayer, the language employed by Ms. Thayer is substantially similar to the gifts discussed in *Dunphy* and *City of Salem* insofar as it provides land to the Town of Lancaster to be used for recreation by the inhabitants of Lancaster, or any succeeding municipality, and that it is to be *always* known as the Nathaniel Thayer Playground. This gift is expressly made for the benefit of the people of Lancaster, contemplates that it should remain in that same use if Lancaster ceases to exist and is succeeded by another municipality, and should always be named in recognition of the donor's husband. Consistent with the SJC's characterization in *Opinion of the Justices* of a gift creating a public trust, it is my opinion that Pauline Thayer's bequest defines a gift to the Town for use by the public in perpetuity with no reversionary rights or interests and no other uses being contemplated or permitted. The result is that the bequest of the Thayer Land established a public charitable trust which does not expire, cannot be modified by the Legislature, and remains enforceable today.

With regard to the Releases, I concur with the 2004 opinion of attorney Daniel Perkins that the attempt to release the use limitations placed on the Thayer Land were not effective.¹¹ To provide a more comprehensive explanation, as the bequest established a public charitable trust for the benefit of the inhabitants of Lancaster, the heirs to the Estate of Pauline Thayer were not interested parties who had any authority to modify the terms of the trust. At no point did the Town seek modification of the public charitable trust through the *cy pres* process. Thus, the restriction remains valid to this day.

Furthermore, having concluded (1) that the Thayer Land is subject to a public charitable trust requiring that the land be used for recreation and playground purposes and (2) that the Releases

¹¹ Attached as Exhibit J

could not modify the Town's obligations with respect to the land on which the Memorial School was constructed, it becomes a necessary conclusion that the entirety of the Thayer Land was held for public recreational purposes in 1972 and at that time became subject to Article 97 in the manner discussed above. Any change of use will necessitate a vote of the legislature.

RECENT TOWN MEETING ACTION

Considering the forgoing conclusions two recent Town Meeting actions purporting to affect portions of the Thayer Land merit brief comment.

Article 18 of the 2016 Annual Town Meeting¹² transferred control of approximately 17 acres of the Thayer Land to the Recreation Committee¹³ and dedicated it to "public recreation and playground uses forever." This dedication would have been an act which subjects the land in question to Article 97 if not for the fact that, as described above, the then existing limitations on its use were already sufficient to have the same effect.

Article 10 of the 2020 Annual Town Meeting¹⁴ purported to transfer the "property and structures thereon known as the Memorial Elementary School, located on 695 Main Street..." from the "board or officer currently having control" to the Board of Selectmen and authorizing the Board to rent, convey, or otherwise dispose of the property. As the Memorial School portion of the Thayer Land remains subject to the terms of the public charitable trust, and Article 97, the Selectmen may control that portion of the property, but it is not in their power to dispose of it by lease or sale, or to make any use of the property that is inconsistent with the terms of the trust.

THE PRESENT USE OF THE THAYER LAND

I have been asked to evaluate the consistency of the terms of the public charitable trust with proposals that the Memorial School property be used for either affordable housing or recreation purposes possibly including the construction of a pavilion. I have also been asked to address any potential liability which may exist in connection with the current use of the Memorial School property and the possibility of modifying the limitations of the use of the property.

Considering the proposals for the reuse of the Memorial School property, it is my opinion that the proposal for a pavilion and related recreational use would be consistent with the terms of the trust and would also remedy the existing violation by returning the use to recreation.¹⁵ Regrettably, critical though it may be, affordable housing is not a use which would be permitted under the current terms of the trust as this use varies to substantially from the recreational purpose of the gift.

¹² Attach article Exhibit K

¹³ Attach plan used in recording in connection with grant. Exhibit L

¹⁴ Attach article Exhibit M

¹⁵ In some cases, Article 97 prevents construction on lands dedicated to public use. It is my opinion that in this case, where the bequest calls out the existence of a gymnasium building and contemplates a playground, there would be no restriction on construction for structures properly related to the recreation and playground purpose.

With respect to enforcement, G.L. c. 203E, §405(c) provides that the “settlor of a charitable trust may maintain a proceeding to enforce the trust.” In this case, the settlor Pauline Thayer, or her heirs, are not likely to appear to enforce the terms of the trust. Additionally, the Attorney General of the Commonwealth has authority under G.L. c. 214, §3(10), to bring an action for the enforcement of a charitable trust. While it does appear that the existence of the Memorial School is a violation of the terms of the trust, it is difficult to predict whether the Attorney General would, if informed, seek enforcement. As it appears the Town believed it had obtained the necessary releases in 1956, that apparent good faith effort may weight against pursuing enforcement merely on the basis that the now vacant school exists on the property. If in the present the Town were to devote the Memorial School property to a different and inconsistent use, enforcement on that basis may be more likely.

Above I mentioned a procedure, known as *cy pres*, by which the terms of a charitable trust can occasionally be modified. *Cy pres*—French for “as close”—is a legal doctrine by which a Court may redirect the application of a trust in circumstances where it has become impossible, impractical, or illegal to comply with the donor’s original intent. Even where it is impossible to comply with that original intent, the Court will only modify the trust in manner which is as close as possible to the original intent. A Court will not modify a trust in a *cy pres* action where it remains possible to effectuate the donor’s intentions.

A *cy pres* petition with respect to the Memorial School property *could* argue that the existence of the school makes it impractical to maintain that portion of the Thayer Land for recreation and playground purposes. In my opinion, a Court is unlikely to be persuaded that the intention of using the gift for recreation and playground purposes cannot be achieved. On this basis it is difficult to recommend *cy pres* as a solution. The time and legal fees required could potentially consume several years, and thousands of dollars, where the Court is unlikely to grant meaningful relief to the Town.

CONCLUSION

Considering all of the foregoing I believe the Town’s options for use of the Memorial School Property include:

1. Reuse of the school building or the property for a recreational and playground use; or
2. A petition in the nature of *cy pres* to permit another use of the property in the hopes that the Court will be sympathetic to the Town’s apparent good faith effort release the use limitations prior to constructing the school and the extensive period of time during which the school has occupied this portion of the property.

Please let me know if you have any questions or wish to discuss further.

Sincerely,

A handwritten signature in black ink that reads "Ivria Glass Fried". The signature is written in a cursive style with a large, stylized initial "I".

Ivria Glass Fried

Encl.

EXHIBIT A

I, PAULINE R. THAYER, widow of Nathaniel Thayer of Lancaster in the County of Worcester and Commonwealth of Massachusetts, hereby make this First Codicil to my last will.

1. I give and bequeath to the Town of Lancaster all the real estate leased to the Nathaniel Thayer Playground Association by me by lease dated December 19, 1912, and recorded with Worcester Deeds, Book 2016, Page 426, together with the Gymnasium Building, the furniture, fixtures and other outfit of personal property used therewith at the time of my death (except, however, the building known as the "Old Inn" and certain land adjoining, and subject to a certain right of way appurtenant thereto, all as specifically devised hereafter by this codicil) to be used by the said town for the purposes of providing a proper and adequate recreation and playground center for the inhabitants of the Town of Lancaster or other succeeding municipality which shall contain within its boundaries the major portion of the Town of Lancaster. This property is to be always known as the Nathaniel Thayer Playground in memory of my late husband.

2. I devise to the Lancaster Social Service Association, a Massachusetts corporation, and its successors and assigns forever the following described parcel of land:

A certain parcel of land in said Lancaster with the buildings thereon containing about 16,440 square feet of land and shown on a plan entitled "Plan of Land on Harvard Street in Lancaster, Massachusetts, surveyed for Pauline R. Thayer" dated August 31, 1934, by Parker, Bateman and Chase, Civil Engineers, to be recorded with Worcester County Registry

of Deeds, bounded:

Northerly by Harvard Street one hundred sixty-two and 55/100 feet;
Easterly by other land of the donor one hundred one and 14/100 feet;
Southerly by other land of the donor one hundred sixty-two and 55/100 feet; and
Westerly by other land of the donor one hundred one and 14/100 feet.

Also a right of way for all usual purposes over the following described parcel of land in said Lancaster, namely a parcel bounded:

Easterly by the premises hereinbefore described and devised to the donee one hundred one and 14/100 feet;
Northerly by said Harvard Street forty-six and 95/100 feet
Westerly by land now or formerly of J. E. Thayer one hundred one and 14/100 feet; and
Southerly by other land of the donor forty-six and 95/100 feet.

Said right of way shall be appurtenant to the devised premises and shall be in common with the devisee of the land given to the Town of Lancaster by Paragraph 1 of this codicil.

3. I give, bequeath and appoint from the property over which I have power of appointment under the will of my late husband Five Thousand Dollars (\$5,000.00) to Pauline Revere Thayer, daughter of Duncan Forbes Thayer and Friscilla McH. Thayer.

4. Out of my own property I give to Mrs. Frederic Winthorpe the sum of Five Thousand Dollars (\$5,000.00) to be distributed by her in her absolute discretion to and among such employees of the Chilton Club as she may determine. I hope that she will be guided by a memorandum which I may leave as to the method of distribution.

5. Any legacy given or appointed to a minor by my will or by this codicil shall be paid over to the Old Colony Trust Company to hold the same in trust to apply all or any part of the income thereof for the maintenance, education and support of such

minor until he or she shall reach the age of twenty-one (21) years, adding any unexpended income to principal, and to pay over the principal and all accumulations to such child when he or she shall reach the age of twenty-one (21) years. In case of the death of any such child under the age of twenty-one (21) years, the trust fund shall become a part of such child's estate.

IN WITNESS WHEREOF I hereunto set my hand and seal and in the presence of three witnesses declare this to be a codicil to my last will this _____ day of September in the year one thousand nine hundred and thirty-four.

Pauline R. Thayer 

Signed, sealed, published and declared by the above-named Pauline R. Thayer as and for a codicil to her last will and testament in the presence of us who in her presence, in the presence of each other and at her request hereto subscribe our names as attesting witnesses.

Susan T. Bigelow

Beverly Farms, Mass

Thayer Bigelow

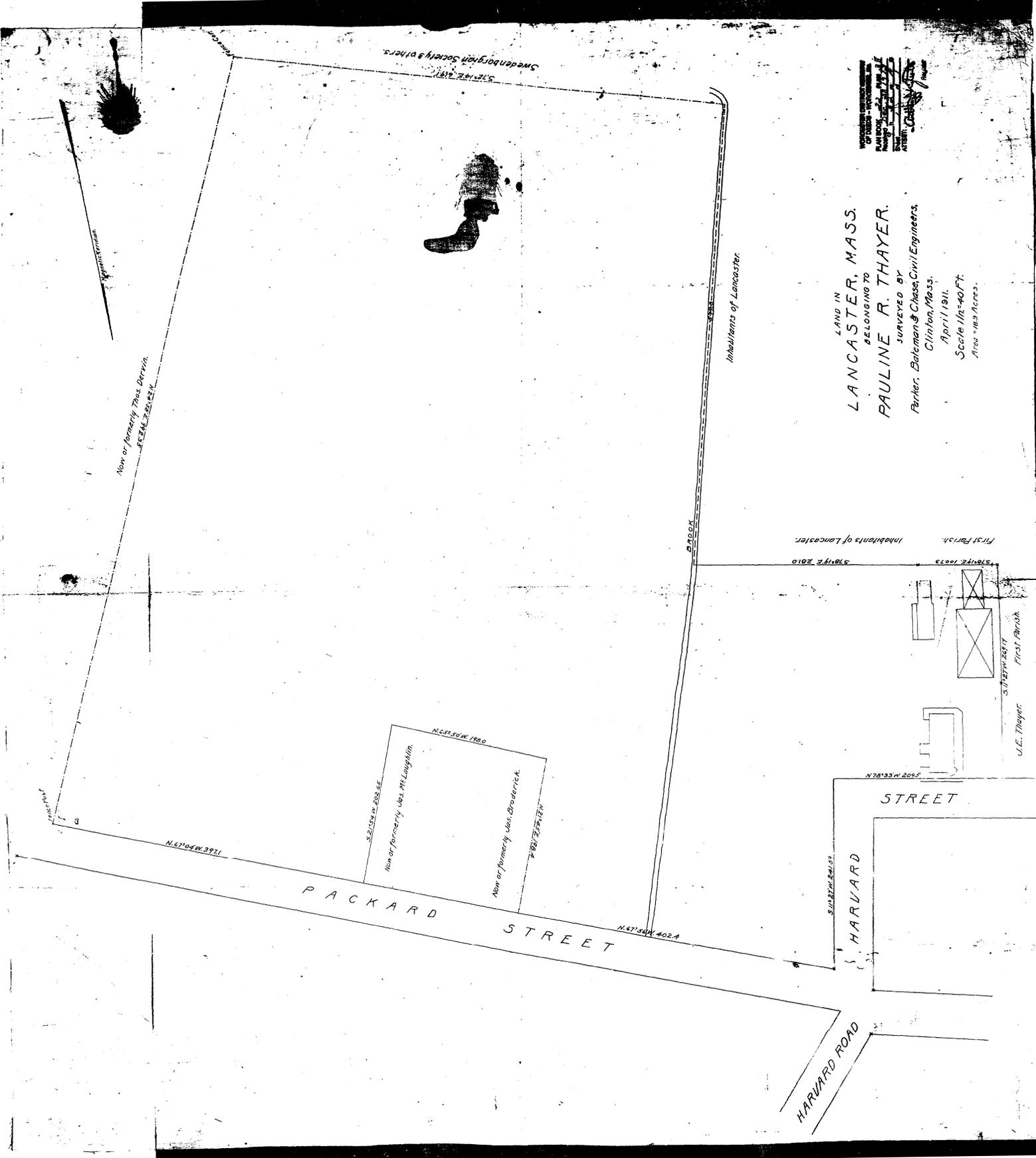
Beverly Farms, Mass

Balena L. Bigelow

South Leeport, Mass

3.18

EXHIBIT B



Swedenborgian Society & others
S. 72° 12' E. 217.1

Now or formerly Thos. Derrin
S. 82° 34' E. 222.2

Inhabitants of Lancaster

Inhabitants of Lancaster
S. 70° 12' E. 201.0

First Parish
S. 70° 12' E. 201.0

N. 65° 50' W. 180.0
S. 81° 58' W. 208.6
Now or formerly Jas. McLaughlin
Now or formerly Wm. D. Derrick
S. 82° 34' E. 222.2

N. 67° 04' W. 397.1

N. 67° 04' W. 402.4

N. 76° 13' W. 201.2

S. 10° 32' W. 244.0

First Parish
S. 71° 31' W. 257.7
J.E. Thayer

WORKING DRAWING
OF THE
PLAN
SHOWING
THE
STREET
LINES
AND
THE
LANDS
TO
BE
SURVEYED
BY
PAULINE
R.
THAYER

LAND IN
LANCASTER, MASS.
BELONGING TO
PAULINE R. THAYER.

SURVEYED BY
Parker, Barlema & Chase, Civil Engineers,
Clinton, Mass.
April 1911.
Scale 1 1/2" = 40 FT.
Area = 16.3 Acres.

EXHIBIT C

Thayer
to
Nathaniel Thayer
Playground Assoc'n
See Plan Book 22,
Plan 38.

I, Pauline R. Thayer, of Lancaster, in the County of Worcester and Commonwealth of Massachusetts, hereby D E M I S E and L E T unto the Nathaniel Thayer Playground Association, a corporation duly organized under the laws of the Commonwealth of Massachusetts, the following described premises;- A certain parcel of land with all the buildings thereon situated in said LANCASTER and bounded and described as follows;- Beginning at a stone bound on the southerly side of Harvard Street, the northwesterly corner of the lot at a corner of land of John E. Thayer; thence by land of said John E. Thayer and by land of First Parish S. 11° 27' W. 269 19/100 feet to a stone bound; thence turning and running S. 78° 19' E by land of said First Parish, 100 73/100 feet to a bound; thence in a line continuous with the last mentioned course 281 feet by land of the Inhabitants of Lancaster to a point at the center of a brook, said point being half way between two stone bounds on either side of said brook; thence turning and running southerly with said brook, by land of the Inhabitants of Lancaster 579 3/10 feet to a point in the center of said brook, said point being half way between two stone bounds on either side of said brook; thence turning and running N. 24° 58' E. 992 35/100 feet by land now or late of Thomas Dervin to a road leading from the Orthodox Church to Neck Road and now called Packard Street; thence turning and running by said Packard Street N. 67° .04' W. 397 1/10 feet to a bound; thence turning and running S 21° 54' W. 202 65/100 feet by land now or late of James McLaughlin to a bound; thence turning and running by land of said McLaughlin and land now or late of James Broderick N 65° 50' W. 198 feet to a bound; thence turning and running by land now or late of said Broderick, N 21° 45' E. 198 4/10 feet to said Packard Street; thence by said street N 67° 56' W. 402 4/10 feet to a bound at the southeast corner of said Packard Street and Harvard Street; thence turning and running S. 11° 27' W with said Harvard Street, 241 59/100 feet to a bound; thence turning and running N. 78° 33' W with said Harvard Street, 209 5/10 feet to the point of beginning, and containing eighteen and 9/10 (18.9) acres more or less. Being the same property conveyed to me by Esther A. Dore, by deed dated October 4, 1910, and recorded with Worcester District Deeds, Book 1945, Page 292, and shown on plan by Parker, Bateman and Chase, dated April 1911, a copy of which is recorded herewith.

For a term of seven years from December 1, 1912 to December 1, 1919, and from year to year thereafter unless sooner terminated as hereinafter provided, at an annual rent of twelve dollars per year, payable yearly on the first days of December in each and every year, and also the taxes and water rates. And said lessee promises to pay said rent, taxes and water rates as aforesaid.

At the option of either party this lease may be terminated at any time as to the whole or any part of the within described premises by giving thirty days written notice, and at the time of said termination, all rents, water rates and taxes shall be adjusted between the said parties as of the date of said termination.

This lease shall bind the parties and their executors, administrators, successors and assigns.

Pauline R. Thayer (seal)
Nathaniel Thayer Playground Association (seal)
by Eugene V. R. Thayer.
John E. Thayer
Dudley H. Dorr
Investment Board.

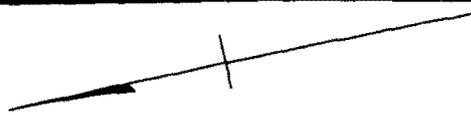
Dated at Lancaster, Mass. December 19, 1912.
Commonwealth of Massachusetts.
Worcester, ss. Lancaster, December 23, 1912. Then personally appeared the above named Pauline R. Thayer, and acknowledged the foregoing instrument to be her free act and deed, before me,
Harold L. French Justice of the Peace.
Rec'd Dec. 28, 1912, at 9h. 29m. A. M. Ent'd & Ex'd.

* * * * *

Draper
to
J. D. Clark Co.

KNOW ALL MEN BY THESE PRESENTS that I, Emory B. F. Draper of Leicester Worcester County, Massachusetts in consideration of One Dollar and other valuable consideration paid by the J. D. Clark Co., a corporation duly established under the laws of Mass., and having its place of business in said Leicester the receipt whereof is hereby acknowledged, do hereby G I V E, G R A N T, B A R - G A I N, S E L L and C O N V E Y unto the said J. D. Clark Company a certain tract of land, with two dwellings and attached buildings thereon, situated on the east side of Pleasant Street, in that part of LEICESTER, known as Greenville, opposite the Baptist Church and is bounded, as follows. Beginning at the southwest corner thereof, on the east line of said street, thence N 86° E. 128.5 feet, partly on a wall, near store-

EXHIBIT D



PAULINE R. THAYER

S 11°-27' W 101.14 S 11°-27' W 101.14

STONE BOUND

SET STAKE

RECORDS
10 10 30 30 34
PAGE.....

S.B.

STREET

AREA = 16,440 SQ. FT.

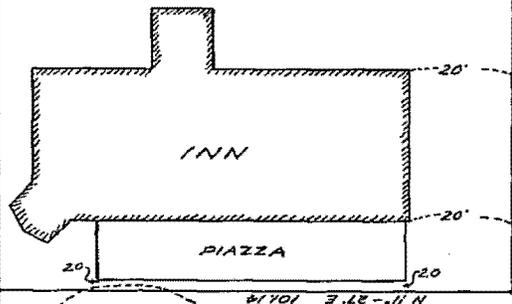
S 78°-33' E 162.55

S 78°-33' E 162.55

PAULINE R. THAYER

WORCESTER DISTRICT REGISTRY
OF DEEDS-WORCESTER, MA
PLAN BOOK 81 PLAN 15
Received SEPT 10 1934
10 h 38 m 19 M
Sheet 7 of 7
ATTEST: *Anthony R. Davis*
Register

49.5'



SET STAKE

SET STAKE

STONE BOUND

S.B.

HARVARD

FORMERLY J.E. THAYER

FIRST PARISH

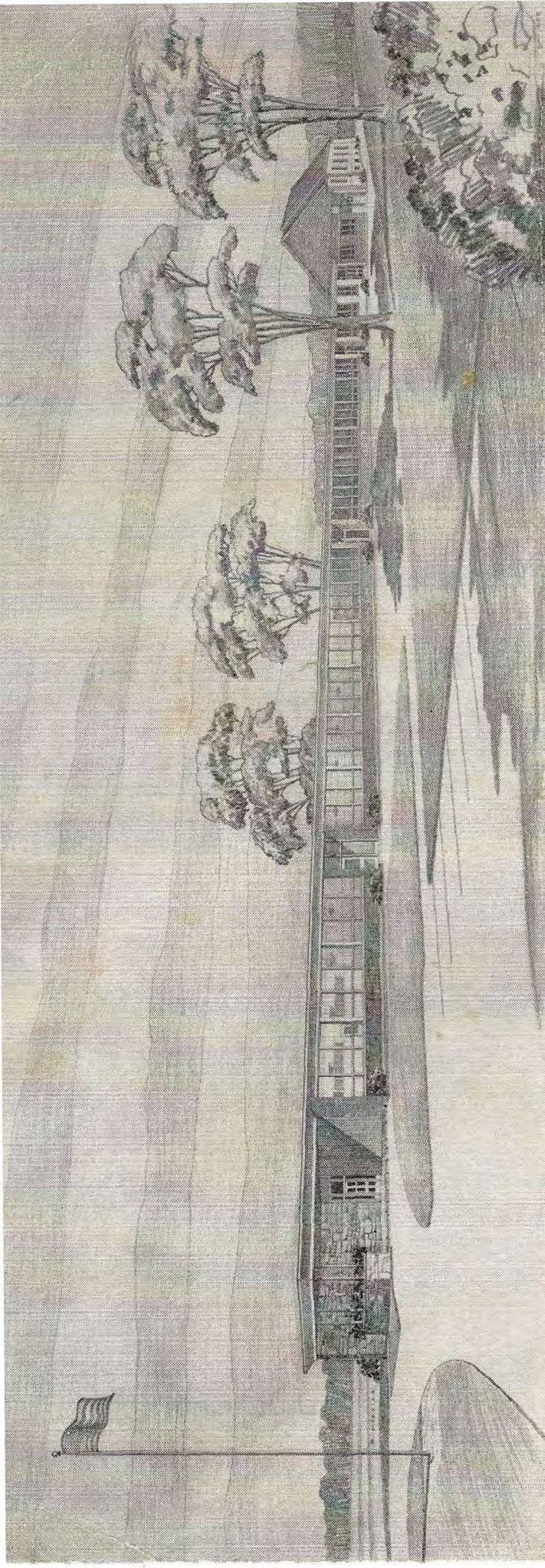
PLAN OF LAND
ON
HARVARD STREET.
IN
LANCASTER MASS.
SURVEYED FOR
PAULINE R. THAYER
AUG. 31, 1934 SCALE: 1 INCH = 20 FT.
PARKER BATEMAN & CHASE
CIVIL ENGINEERS - CLINTON MASS.

Worcester, Ms. Sept. 10, 1934 Received and filed:
10 h 38 m A.M. with Worcester District Registry of Deeds.
Attest: *Anthony R. Davis*
Register.

15 16

EXHIBIT E

EXHIBIT F



DECEMBER 1, 1955

ARCHITECT: FRANKLYN WILLIAMS

PROPOSED NEW ELEMENTARY SCHOOL

LANCASTER, MASSACHUSETTS

Building Committee:

J. D. FREEMAN, *Chairman*

F. J. BURGoyNE

Mrs. J. A. HOWARD

H. D. HOYT,

B. D. RICHTER

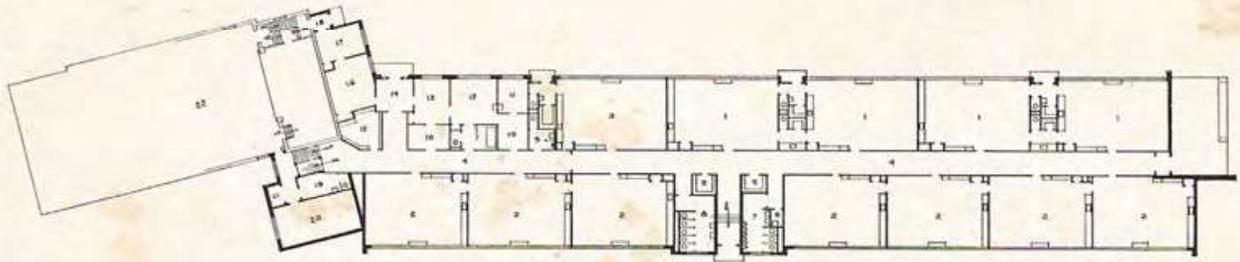
F. R. SCHREITER

O. F. SHEPARD

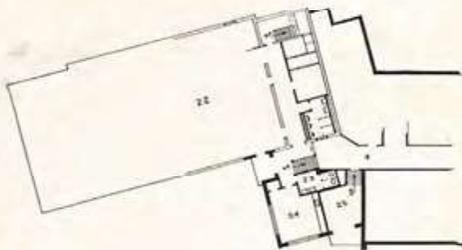
N. G. STADHERR

H. U. WENDELL

ELEMENTARY SCHOOL, TOWN OF LANCASTER, MASS.



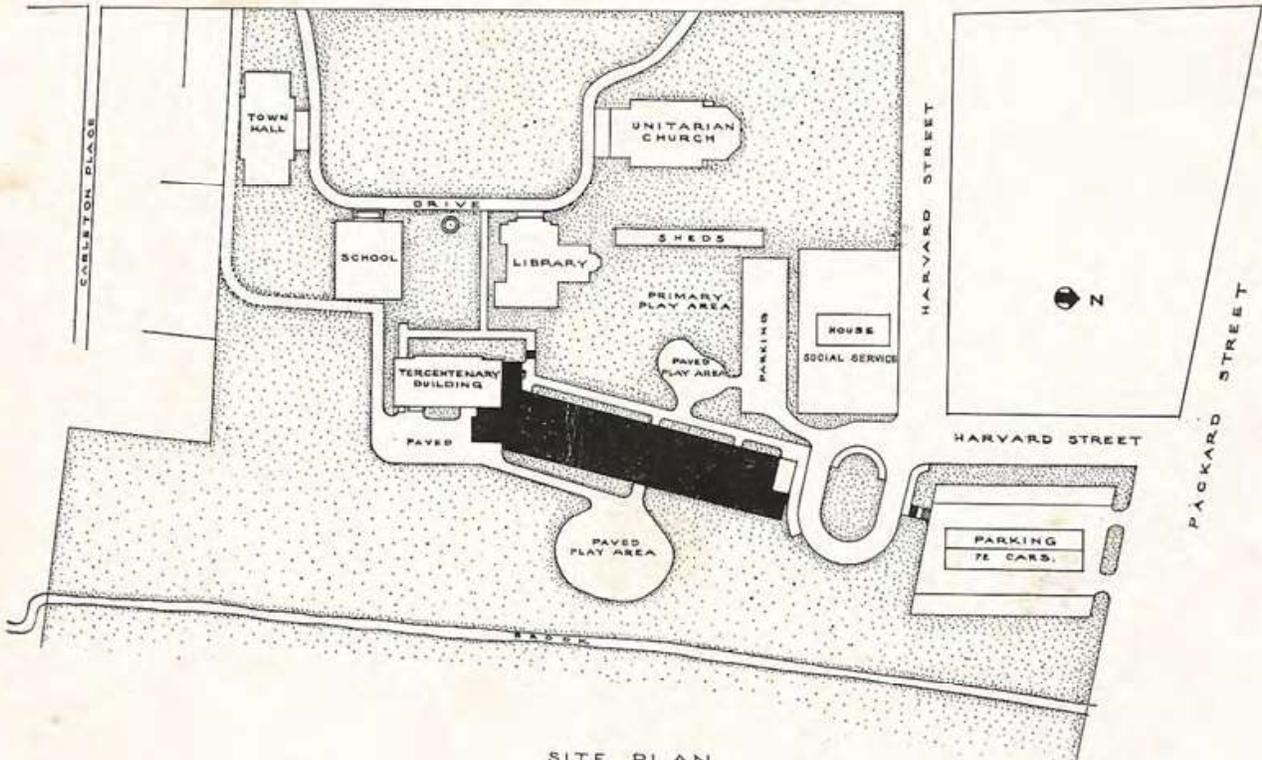
FIRST FLOOR PLAN



GROUND FLOOR PLAN

1. Ritory Classroom
2. Classroom
3. Special classroom
4. Corridor
5. Book Storage
6. Jan. Closet
7. Men Toilet
8. Girls Toilet
9. Men Toilet
10. Hearing Room
11. Reception Room
12. Men's Office
13. Principal's Office
14. Jan.
15. Teacher Storage
16. General Office
17. Superintendent's Office
18. Entry
19. Arm Room
20. Chair Storage
21. Coat
22. Living Building
23. Women Toilet
24. Teachers Lounge
25. Recreational Storage

MAIN STREET



SITE PLAN



Specifications:

Total floor area—19,000 sq. ft.
 12 Classrooms
 Principal's Office
 Health Rooms
 Supt. Office
 Toilets
 Storage Rooms
 Teachers' Room
 Book Storage

Building Needs:

Present number of class-rooms
 Returned to selectmen
 Net
 Class-rooms recommended—
 Elementary (1-6)
 Shop—Domestic Science
 Mentally retarded
 Future Growth
 Junior-Senior High
 Total

Number of Classrooms Requested

PUPIL GROWTH	1951 — 398	1955 — 548
	1952 — 457	Estimated
	1953 — 470	1956 — 580
	1954 — 518	1957 — 610

If this building is authorized at the Annual Meeting, the building will be completed for use by September, 1957. Starting in September, 1956, the School Dept. will have to either hire additional space or go on double session, in addition to using the auditorium in the Town House.

Estimated Cost Analysis as proposed by the Architect

Land		no cost
Building		
	246,500 Cu. ft. at \$1.05	
	19,000 Sq. ft. at \$13.68	\$260,000
Site development—Rough Grading		
Walls— Sewage — Roads — Walks		\$13,500
Finished Grading — Planting		\$10,000
Architect Fee — Engineering		\$23,000
Furniture (Movable equipment)		\$10,000
Contingency Fund		\$8,500
		<hr/>
	Total Cost	\$325,000

EXHIBIT G

In witness whereof, the said Massachusetts General Hospital
 has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and
 delivered in its name and behalf by George Weld
 its Assistant Treasurer ⁱⁿ hereto duly authorized, this THIRTEENTH
 day of June in the year one thousand nine hundred and fifty-six

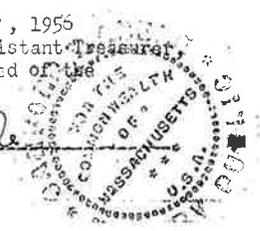
Signed and sealed in the presence of _____

 MASSACHUSETTS GENERAL HOSPITAL

 by George Weld, Assistant Treasurer

Suffolk, ss: _____ June 13, 1956
 Then personally appeared the above named George Weld, Assistant Treasurer
 and acknowledged the foregoing instrument to be the free act and deed of the
 Massachusetts General Hospital.

Before me, _____ Sanford T. Abele
 My commission expires Dec 16 1959 _____
 Notary Public



At a meeting of the Trustees of The Massachusetts General Hospital duly
 called and held in Boston, Massachusetts, on June 8, 1956, at which meet-
 ing a quorum was present and acting throughout, it was unanimously

VOTED: That the Assistant Treasurer be, and he hereby is, authorized
 to sign on behalf of the Hospital a release, as presented to
 the meeting, by which the Hospital, as residuary legatee under
 the will of Pauline Revere Thayer, releases to the extent of
 its legal right to do so the Town of Lancaster, Massachusetts,
 from restrictions created by said will on that land in Lancas-
 ter bequeathed to the Town in said will.

A true copy from the record. The document attached to this certifi-
 cate is the document presented to the meeting.

Attest:

 Secretary

Recorded June 26, 1956 at 1h. 55m. P. M.

House of the Good Samaritan
 a corporation duly established under the laws of Massachusetts
 and having its usual place of business at Boston Suffolk
County, Massachusetts, for consideration paid,
 grant to Inhabitants of the Town of Lancaster, a municipal corporation of Lancaster,
 a release from restrictions of a portion of the land in Lancaster devised to the
Town of Lancaster under the will of Pauline Revere Thayer, late of Lancaster, in
~~the first clause of the Codicil said will having been~~ ~~with certain conditions~~
allowed by the Worcester County Probate Court, Case #113112; which land the
town desires to use for school building purposes.
 the land ~~is~~ to be released from restrictions contained in the said clause consists
of a portion of the devised premises containing one acre, more or less, and

[Description and encumbrances, if any]

bounded on the east by the brook, on the south by land of the Town of Lancaster,
 on the west by land of the Unitarian Church and on the north by Harvard Street;
 intending to release and hereby releasing the land lying westerly of the brook
 which flows through the devised premises. The grantor is a residuary legatee
 under the will of the said Pauline Revere Thayer, and hereby release the grantee
 from any and all restrictions on the property above described in so far as the
 grantor has the legal right so to do.

In witness whereof, the said House of the Good Samaritan
 has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and
 delivered in its name and behalf by Thorvald S. Ross
 its Treasurer hereⁱⁿ duly authorized, this twelfth
 day of June in the year one thousand nine hundred and fifty-six

Signed and sealed in the presence of

HOUSE OF THE GOOD SAMARITAN

Marian B. Kuhlstedt
Alice M. Jeffrey

by Thorvald S. Ross
June 12, 1956

Suffolk, ss: I, Kaino F. Kane, Notary Public, do hereby certify that Thorvald S. Ross
 personally appeared the above named Thorvald S. Ross
 and acknowledged the foregoing instrument to be the free act and deed of the
House of the Good Samaritan.
 before me,
Kaino F. Kane
 Notary Public
 My commission expires July 22, 1961

EXHIBIT H

Dedication of
Lancaster Memorial Elementary School

*"In Commemoration of the Lancaster Veterans who Served in World
War II That our Freedom Might be Preserved."*



Memorial School

Tercentenary Auditorium
Lancaster, Massachusetts
September 23, 1957
8:30 P.M.

ROOMS AND FACILITIES

Twelve Classrooms
Nurse's Office and Examination Room
Teachers' Lounge
Principal's Office and Waiting Room
Superintendent's Offices
Girls' Locker Room
Equipment Room

COST ANALYSIS

<i>Adjusted Contract Price</i>	\$316,500
<i>Finish Grading and Seeding</i>	4,000
<i>Architect's Fee</i>	25,200
<i>Furniture and Equipment</i>	14,000
	<hr/>
	\$359,700

Architect: Franklyn R. Williams, Worcester, Mass.

General Contractor: Chick Construction Co., Clinton, Mass.

Building Committee:

J. D. Freeman, Chairman	B. D. Richter
F. J. Burgoyne	F. R. Schreiter
Mrs. J. A. Howard	O. F. Shepard
H. D. Hoyt	N. G. Stadtherr
G. A. MacArthur	H. U. Wendell

PROGRAM OF DEDICATION

Selections	School Band
Invocation	Rev. John M. O'Brien
Welcome	F. J. Burgoyne, Chairman Board of Selectmen and member of Building Committee
Flag Salute	Antonio Somensini, Commander, American Legion
Selection	Glee Club
Presentation of Platform Guests	Mrs. J. A. Howard, Chairman School Committee
Presentation of Teachers	G. A. MacArthur, Supt. of Schools
Dedication Address	Rev. Alexander St. Ivani
Presentation of Building on behalf of the Town	J. D. Freeman, Chairman of Building Committee
Acceptance on behalf of the Schools	Mrs. J. A. Howard, Chairman School Committee
Selection	Glee Club
Benediction	Rev. Richard Chartier

Open House until 10:30 P.M.

Refreshments in the Cafeteria
Sponsored by the Lancaster P. T. A.

PLATFORM GUESTS

Lancaster Memorial Elementary School Building Committee

Lancaster School Committee

Selectmen of Lancaster

Franklyn R. Williams, Architect

John B. Innamorati, General Contractor

Superintendent of Schools

Memorial Elementary School Principal

L. M. Brown

Former Superintendent H. Deane Hoyt

Members of the Clergy

American Legion Commander, Antonio Somensini

EXHIBIT I

Boston

Kopelman and Paige P.C.

Northampton

31 St. James Avenue

Boston, MA 02116

Worcester

(617)556-0007 / (617)654-1735 - fax

Pittsfield

THIS DOCUMENT IS CONFIDENTIAL

FAX TRANSMITTAL COVER SHEET

Date: November 18, 2004 Number of Pages Including Cover: 3

Account Code: 0037 Original Will Follow: Yes No

This Fax was Sent By: Kathleen M. O'Donnell, Esq. Operator Initials:

PLEASE DELIVER TO:

Name

Fax Number

Alan Agnelli, Town Administrator

978-368-8486

COMMENTS OR INSTRUCTION:

[Empty rectangular box for comments or instructions]

PLEASE CONTACT SENDER AT (617)654-1754 IF YOU HAVE NOT RECEIVED THE NUMBER OF PAGES NOTED ABOVE OR IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION

LEONARD KOPELMAN
DONALD G. PAIGE
ELIZABETH A. LANE
JOYCE FRANK
JOHN W. GIORGIO
BARBARA J. SAINT ANDRE
JOEL B. BARD
JOSEPH L. TEHAN, JR.
THERESA M. DOWDY
DEBORAH A. ELIASON
RICHARD BOWEN
DAVID J. DANESKI
JUDITH C. CUTLER
KATHLEEN E. CONNOLLY
DAVID C. JENKINS
MARK R. REICH
BRIAN W. RILEY
DARREN R. KLEIN
JONATHAN M. SILVERSTEIN
ANNE-MARIE HYLAND
JASON R. TALERMAN
GEORGE X. PUCCI

EDWARD M. REILLY
DIRECTOR WESTERN OFFICE

KOPELMAN AND PAIGE, P. C.

ATTORNEYS AT LAW

31 ST. JAMES AVENUE

BOSTON, MASSACHUSETTS 02116-4102

(617) 556-0007

FAX (617) 654-1735

—
PITTSFIELD OFFICE

(413) 443-6100

—
NORTHAMPTON OFFICE

(413) 585-8632

—
WORCESTER OFFICE

(508) 752-0208

WILLIAM HEWIG III
JEANIE S. MCKNIGHT
KATHLEEN M. O'DONNELL
PATRICIA A. CANTOR
THOMAS F. LANE, JR.
MORY L. GIORGIO
THOMAS W. MCENANEY
KATHARIN GOREE DOYLE
LAURENCE F. COLOBERG
JANE FREY A. HONIG
MICHAEL S. RANDAZZO
GREGG J. CORBO
RICHARD T. HOLLAND
ELIZABETH R. CORBO
MARIA C. ROTA
MICKI S. MAREH
JOHN J. GOLDBROSEN
CHRIS EVERETT
BRUCE E. GLENNON, II
JONATHAN D. BICHMAN
JOSEPH S. FAIR
LAURA H. PAWLE
CAROLYN M. MURRAY
JACKIE GOWIN
BRANDY N. TURNER
MICHAEL T. BLAKE
T. ERIC SLAGLE

November 18, 2004

BY FACSIMILE - (978) 368-8486

Hon. Joanne C. Foster and
Members of the Board of Selectmen
Lancaster Town Hall
P.O. Box 293
Lancaster, MA 01523

Re: Town Green Buildings - Land Use Restriction

Dear Members of the Board of Selectmen:

You have asked us to review certain materials assembled by the Town Green Buildings Advisory Committee ("Committee") in connection with its review of future uses for the Memorial School/Tercentenary Building and the Prescott Building ("Town Buildings"). You have specifically asked us if there are any restrictions that might affect re-use or development of the Town Buildings. You have also asked for advice on how the Town might best determine the exact property lines for the land on which the Town Buildings are located.

We have been provided with a copy of the will of Pauline Thayer. Under this first codicil to this will, the Town was given the 18.9 acres of land (the "Thayer Land") originally leased to the Nathaniel Thayer Playground Assoc. by lease dated December 19, 1912 "to be used by the said town for the purposes of providing a proper and adequate recreation and playground center for the inhabitants of the Town of Lancaster". I understand that your surveyor, David Ross, has determined that a portion of the Memorial Building sits the Thayer Land. I also understand that Mr. Ross's research indicates that the rest of the land under the Town Buildings was acquired by several deeds, none of which contain restrictions on the use.

On the assumption that the restriction was created upon the death of Mrs. Thayer in 1934, under G.L. c. 184 § 28, the restriction itself would be unenforceable after 1984. Section 28 states

KOPELMAN AND PAIGE, P.C.

Hon. Joanne C. Foster and
Members of the Board of Selectmen
November 18, 2004
Page 2

that "no restriction imposed before January 1, 1962 shall be enforceable after the expiration of fifty years from its imposition unless a notice of restriction is recorded before the expiration of such fifty years or before January 1, 1964, whichever is later subject to certain conditions. The materials you have provided do not indicate that an extension of the restriction was recorded.

Notwithstanding the provisions of this Section, the recreational use is permanently protected under Article 97 of the Massachusetts Constitution.

Article 97 created a constitutionally mandated protection for land acquired for open space, conservation, and recreation purposes. Specifically, Article 97 provides as follows:

Article XCVII. Article XLIX of the Amendments to the Constitution is hereby annulled and the following is adopted in place thereof: - The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.

The general court shall have the power to enact legislation necessary or expedient to protect such rights.

In the furtherance of the foregoing powers, the general court shall have the power to provide for the taking, upon payment of just compensation therefor, or for the acquisition by purchase or otherwise, of lands and easements or such other interests therein as may be deemed necessary to accomplish these purposes.

Lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the general court.

As interpreted by the courts, Article 97 prohibits the change in use of any land acquired for conservation, open space, and recreational purposes to any other use without following the procedures set forth in Article 97, including a two-thirds vote of both houses of the legislature.

Once Article 97 became law in 1972, it applied to all land acquired and held for recreation purposes. In my opinion the Thayer Land became subject to the protections of Article 97 in 1972.

In the event that the Committee recommends a change in the recreational use of the Thayer Land, the municipal body that holds custody of the Thayer Land, which I assume is the Recreation Commission, must vote to declare that the Thayer Land is no longer needed for

KOPELMAN AND PAIGE, P.C.

Hon. Joanne C. Foster and
Members of the Board of Selectmen
November 18, 2004
Page 3

recreational purposes. Town Meeting must then vote, by a two-thirds majority, to transfer custody to the Board of Selectmen for the new municipal purpose, which might include purposes of sale. Because of the protections afforded by Article 97, the change in use also requires the approval, again by a two-thirds vote, of both houses of the legislature.

In answer to your question on professional services necessary to make the determination of the exact property lines for the land on which the Town Buildings and the Town Hall are located, in my opinion, this determination should be made by a professional land surveyor.

I understand that the Town's ownership of the land under the Town Buildings was acquired through several deeds and under the will of Pauline Thayer. However, as with any property owner, these various parcels are now merged into one, albeit in the Town's case, held by different "custodians".

In my opinion, the question of the property description could be approached in the same fashion as the boundary line agreement with First Church. I recommend that a surveyor be engaged to prepare a plan of all of the Town's property on Main Street and that the property be divided into "lots" designated as "Town Hall", "Library", "Town Green", "Tercentenary Building", and "Memorial School".

The next step would be to make a determination of the custody of the various lots. To the extent that custody is held by municipal bodies other than the Board of Selectmen, these custodians should be contacted to begin the process for voting their particular parcel as "surplus". These votes would be done in anticipation of a transfer of custody by Town Meeting. The Town should also begin the process for release of the Article 97 protection of the recreational use for the Thayer Land.

If the Committee decides to sell any of the lots, a recordable plan would be necessary. Authorization to sell the newly created lot must be obtained from Town Meeting. Please keep in mind however that the legislature will more than likely require the Town to provide an adequate substitute for the lost recreational land.

KOPELMAN AND PAIGE, P.C.

Hon. Joanne C. Foster and
Members of the Board of Selectmen
November 18, 2004
Page 4

If you have any further questions regarding the issues regarding the potential re-use of the
Town Buildings, please do not hesitate to contact me.

Very truly yours,



Kathleen M. O'Donnell

KO'D/jmb

236927/LANC/0001

EXHIBIT J

Duplicate page showing
receipt by Lancaster
Board of Selectmen

RECEIVED

MAR 31 2004

TOWN OF LANCASTER
BOARD OF SELECTMEN

THE LAW OFFICE OF
JONATHAN M. DENNEHY
6 GROVE AVENUE
LEOMINSTER, MASSACHUSETTS 01453

TELEPHONE:
(978) 534-4575

FAX
(978) 534-4552

Jonathan M. Dennehy, Esquire
Daniel R. Perkins, Esquire
Andrea R. Freedman, Esquire

jonathan@dennehy-usa.com
dan@dennehy-usa.com
andrea@dennehy-usa.com

March 23, 2004

Board of Selectmen
TOWN OF LANCASTER
Municipal Building
695 Main Street
Lancaster, MA 01523

Dear Lancaster Selectmen:

Our office has been asked by James Piermarini to research the possibility of the Town selling property it owns on the Town Common. The Estate of Pauline R. Thayer left the property to the Inhabitants of the Town of Lancaster. Mrs. Thayer's will in 1934 left 18.9 acres to be used by the Town "to be used by the said town for the purposes of providing a proper and adequate recreation and play ground center for the inhabitants of the Town of Lancaster" (a copy of Mrs. Thayer's will, in its pertinent parts, are attached hereto as **Exhibit A**). This parcel is referred to herein as the "Gymnasium Property." The "Old Inn" land (as shown on a plan recorded with the Worcester District Registry of Deeds in Plan Book 22, Plan 38, a copy of which is attached hereto as **Exhibit B**) was excepted from this devise, and therefore excepted from the restrictions imposed by Mrs. Thayer in her will (see Article 2 of said will in Exhibit A). That property was left to Lancaster Social Service Association. The LSSA deeded this property to the Town in two separate deeds recorded in Book 3775, Page 457 and Book 5363, Page 466 (copies of said deeds are attached hereto as **Exhibit C**).

In 1956, the residual beneficiaries of Mrs. Thayer's will, Massachusetts General Hospital and House of the Good Samaritan attempted to release the Gymnasium Property from the restriction that the property be used as a playground. It is my opinion, however, that this attempt fails to remove the restriction imposed by Mrs. Thayer's will, and that the Town can neither convey the property nor change the use of the property from a "playground use" without a vote of the Massachusetts legislature.

As I am sure you are aware, the town need a two-thirds vote at town meeting under Mass. Gen. Laws, ch. 40, sec. 15 (a) in order to convey town owned real property. In addition to this requirement, in order for the town to convey the Gymnasium Property without running afoul of the restriction, the town would first need to comply with Article 49 of the Massachusetts Constitution. Article 49 guarantees the citizens of the

JONATHAN M. DENNEHY, ESQ

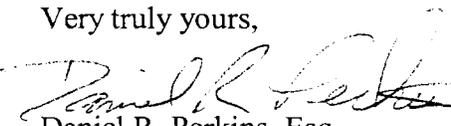
Town of Lancaster
Board of Selectmen
March 23, 2004
Page 2

Commonwealth the right to enjoyment of what we would call open space. Because Thayer's will restricted the property to use as a playground, Article 49 would apply to this property, disavowing any attempt to change the use of the property without a two-thirds vote by both the State Senate and State House of Representatives.

If the town endeavored change the use of the Gymnasium Property or to sell it without having the restriction successfully removed, title to the Gymnasium Property would revert by operation of law to the Estate of Pauline R. Thayer. Therefore, I would highly recommend preserving the property as Mrs. Thayer's will provided or gain permission from the Legislature to change the use prior to any attempt to convey the Gymnasium Property or change its use.

If you have any questions, please do not hesitate to call me. Thank you for your attention to this matter.

Very truly yours,



Daniel R. Perkins, Esq.

Exhibit A

Estate of Pauline Thayer, Town Lancaster
Case 113143

5.

ah Thayer
ding to
nt in which
Thayer
ing

ire whether
the residue
l or

any such
between
erests.

f every
my death
ospital

e to or does
any codicil

shall have
leave of

uired under
r any

set aside
may seem

c valuation
aqueathed and
tions and
e and binding

12. My executor and any trustee or tax trustees under this will or any codicil shall be chargeable only for such moneys, stocks, funds and securities as each shall actually receive, and each such executor or trustee shall be accountable only for his own acts, receipts, neglects or defaults and not for those of any other trustee, nor for any banker, broker, or other person with whom trust moneys or securities may be deposited nor for the loss in value of any stocks or securities may be deposited nor for the less in value of any stocks or securities unless the same shall happen through his or their own wilful default. If any stocks, bonds or other securities are retained or purchased by my trustee or trustees at a premium above their par value, or are wasting securities, the trustee or trustees may if he or they see fit to do so regard the whole of the interest or dividends received on such securities as income; and generally what expenses, commissions or charges shall be charged to income and what to capital, and what sums or property received shall be deemed capital and what income shall be determined by my trustee or trustees.

Codicil.

1. I give to Town of Lancaster all the real estate leased to the Nathaniel Thayer Playground Asso. by me by lease dated 19 Dec. 1912, Book 2016 Page 426, together with the Gymnasium Bldg., the furniture, fixtures and other outfit of personal property used therewith at the time of my death (except, however, the bldg. known as the Old Inn and certain land adjoining and subject to a certain right of way appurtenant thereto, all as specifically devised hereafter by this codicil) to be used by the said town for the purposes of providing a proper and adequate recreation and play ground center for the inhabitants of the Town of Lancaster or other succeeding municipality which shall contain within its boundaries the major portion of the Town of Lancaster. This property is to be always known as the Nathaniel Thayer Playground in memory of my late husband.

2. I devise to the Lancaster Social Service Asso. a Mass. corp. and its successors and assigns forever the following described parcel of land:

A certain parcel of land in said Lancaster with the bldgs. thereon containing about 16,440 sq.ft. of land and shown on a plan entitled "Plan of Land on Harvard Street in Lancaster, Mass. surveyed for Pauline R. Thayer" dated 51 Aug. 1954, by Parker, Bateman and Chase, C.E. to be recorded,

over

Westerly by other land of the donor 101.14ft.

Also a right of way for all usual purposes over the following described parcel of land in said Lancaster, namely a parcel bounded:

Easterly by the premises hereinbefore described and devised to the donee 101.14 ft.

Northerly by said Harvard St. 46.95 ft.

Westerly by land now or formerly of J. E. Thayer 101.14 ft.

Southerly by other land of the donor 46.95 ft.

Said right of way shall be appurtenant to the devised premises and shall be ~~therein~~ in common with the devisee of the land given to the Town of Lancaster by paragraph 1 of this codicil.

3. I give and appoint from the property over which I have power of appointment under the will of my late husband, \$5000. to Pauline Revere Thayer, dau. of Duncan Forves Thayer and Priscilla McKim Thayer.

4. Out of my own property I give to Mrs. Frederic Winthrop the sum of \$5000. to be distributed by me in her absolute discretion to and among such employees of the Chilton Club as she may determine.

I hope that she will be guided by a memorandum which I may leave as to the method of distribution.

5. Any legacy given or appointed to a minor by my will or by this codicil shall be paid over to the Old Colony Trust Company to hold the same in trust to apply all or any part of the income to the maintenance, education and support of such minor until he or she shall reach the age of 21 years.

adding any unexpired income to principal, and to pay over the principal and all accumulations to such child when he or she shall reach the age of 21 years. In the case of the death of any such child under the age of 21 years, the trust fund shall become a part of such child's estate.



EXHIBIT K



Town of Lancaster

Office of the Town Clerk

695 Main Street, Suite 2

Lancaster, Massachusetts 01523

Tel (978) 365-3326 ext. 1013 - Fax (978) 368-4011



2016 00147676

Bk: 56507 Pg: 314

Page: 1 of 2 12/22/2016 10:19 AM WD

EXCERPT OF THE ANNUAL TOWN MEETING HELD

MONDAY, MAY 2, 2016, 7:15 P.M.

MARY ROWLANDSON ELEMENTARY SCHOOL AUDITORIUM

MAY 2, 2016 – TOWN MEETING VOTER ATTENDANCE: 148, 13 NON-VOTERS

ARTICLE 18 – RECREATIONAL FACILITIES

(Two-thirds vote required)

To see if the Town will vote to raise and appropriate, transfer from available funds, and/or borrow the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for the purpose of designing, developing, constructing, and renovating new and existing outdoor recreational facilities for public use on the Town-owned land located at 695 Main Street, shown as Assessor's Map 34, Parcel 91, consisting of seventeen acres, more or less, and shown on a plan entitled "Plan of Land in Lancaster, made by CABCO, dated 8/25/11", which recreational facilities may include, but are not limited to, park facilities, playground equipment, athletic fields, and any manner of buildings and structures to support and carry out such purpose;

and further to transfer the care, custody, management and control of the said land from the Board of Selectmen for the purpose for which it is currently held to the Recreation Committee for active and passive outdoor recreation purposes in accordance with the provisions of G.L. c. 45, Section 14, as amended, and any other enabling authority with respect to recreation property; and further to dedicate the said property to public recreation and playground purposes forever;

and further to authorize the Recreation Committee and/or its designees to file on behalf of the Town any and all applications for grants and/or reimbursements from the Commonwealth of Massachusetts under the Land and Water Conservation Fund Act (P.L. 88-578, 78 Stat 897) or other sources in any way connected with the scope of this article, and to accept funds therefrom and any other gifts and/or grants therefor;

and to enter into any and all agreements and execute any and all instruments as may be necessary or convenient on behalf of the Town to undertake the purposes of the article, and that to meet this appropriation, the Treasurer-Collector with the approval of the Board of Selectmen, is hereby authorized to borrow said sum pursuant to the provisions of G.L. c. 44, Section 7, or any other enabling authority, and to issue bonds or notes of the Town therefor, said funds to be expended under the direction of the Board of Selectmen;

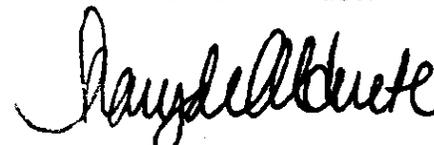
or act in any manner relating thereto.

Motion:

Johnna Doyle, Chair of the Recreation Committee, moves (Riley seconded) to appropriate \$300,000.00 for designing, developing, constructing, and renovating new and existing outdoor recreational facilities for public use on the Town-owned land located at 695 Main Street as further described in the warrant and transfer the care, custody, management and control of the said land from the Board of Selectmen for the purpose for which it is currently held to the Recreation Committee for active and passive outdoor recreation purposes in accordance with the provisions of G.L. c. 45, Section 14, as amended, and any other enabling authority with respect to recreation property; and further to dedicate the said property to public recreation and playground purposes forever, and to authorize the Recreation Committee and/or its designees to file on behalf of the Town any and all applications for grants and/or reimbursements in any way connected with the scope of this article, and to accept funds therefrom and any other gifts and/or grants therefor, and to enter into any and all agreements and execute any and all instruments as may be necessary or convenient on behalf of the Town to undertake the purposes of the article, and that to meet this appropriation, the Treasurer-Collector with the approval of the Board of Selectmen, is hereby authorized to borrow said sum pursuant to the provisions of G.L. c. 44, Section 7, or any other enabling authority, and to issue bonds or notes of the Town therefor, said funds to be expended under the direction of the Board of Selectmen.

MOTION CARRIES UNANIMOUSLY

A TRUE COPY ATTEST:



TOWN CLERK

LANCASTER, MASSACHUSETTS

ATTEST: WORC. Anthony J. Vigliotti, Register

EXHIBIT L

Victoria Petracca

From: Cryan, Melissa (ENV) <melissa.cryan@state.ma.us>
Sent: Monday, March 9, 2020 11:33 AM
To: Victoria Petracca
Subject: another map
Attachments: lancaster thayer field signed 6f map.pdf

Victoria,

I've attached a different boundary map. This was the original one submitted with the grant application when the town planner was still on board, so may be more accurate. I had sent you the one that was sent by Orlando with the grant close out information. Let me know if you have any questions.

Melissa

LWCF Grant Round Now Open!
Grant deadline March 31, 2020 at 3:00 pm

Melissa Cryan
Grant Programs Supervisor
Division of Conservation Services
100 Cambridge Street, 9th Floor
Boston, MA 02114
(617) 626-1171
<https://www.mass.gov/grant-programs-offered-by-the-division-of-conservation-services>

Preliminary Conceptual Site Plan
Alternative C Revised Program



BEALS+THOMAS
DATE: 02/23/16
BY: [illegible]
SCALE: 1"=60'

Nathaniel Thayer Recreation Campus
Lancaster, Massachusetts

Nathan Thayer 7/18/16

EXHIBIT M

2) Add the following new Section F:

F. Waivers. The Planning Board may waive the compliance with any IPOD requirements upon a finding that the waiver is in the public interest and not inconsistent with the intent of this IPOD bylaw.

Or act in any manner relating thereto

ARTICLE 10
Board of Selectmen

To see if the Town will vote to transfer from the board or officer currently having control for current purpose for which the property is held to the Board of Selectmen, for the purpose of disposition by lease, sale, or otherwise, the care, custody, management and control of the property and structures thereon known as the Memorial Elementary School, located on 695 Main Street and shown on the Assessors' Maps as map 31, parcel 94; and to authorize the Board of Selectmen to rent, convey, or otherwise dispose of all or a portion of said property pursuant to the provisions of G.L. Chapter 30B, Section 16 upon such terms and conditions as the Board of Selectmen deems to be in the best interest of the Town; and further to authorize the Board of Selectmen to take such actions and execute such documents and agreements as are necessary to effectuate the purpose of this article; or take any other action relative thereto.

Summary: This articles presents the Board of Selectmen may declare as surplus and available for disposition by lease the inactive Memorial Elementary School Building.

ARTICLE 11
Community Preservation Act

To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, rehabilitation and restoration of historic resources, the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space and community housing that is acquired or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy against real property and the fiscal year in which such surcharge shall commence; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; or to take any other action relative thereto.

Summary: This article presents acceptance of the provisions of Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act

ARTICLE 12
Affordable Housing Trust Creation

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 44, Section 55C, and establish a trust known as the Lancaster Affordable Housing Trust Fund, whose purpose shall be to provide for the preservation and creation of affordable housing in the Town of Lancaster for the benefit of low and moderate income households, and, further, to amend the General Bylaws of the Town to insert a new Chapter _____ of the Lancaster Town Code entitled: Affordable Housing Trust Fund, as follows, or act in any manner relating thereto: