

FINAL DISCUSSION DRAFT
LAND USE and MANAGEMENT PLAN
for the
TOWN OF IPSWICH CONSERVATION LAND

off Colonial Drive, Ipswich, Massachusetts
Known as

Shady Creek Conservation Area
Assessors' Map 53B Lot No. 44
44 +/-acres

Adopted: June __, 2007 Effective: June __, 2007

Adopted by the Ipswich Conservation Commission
With commentary input/acceptance of:
Ipswich Board of Selectmen
Ipswich Recreation Department
Ipswich Department of Public Safety
Ipswich Department of Public Works
Ipswich Department of Planning and Development
And with public comments by
Members of the Ipswich Public Community
at an advertised public hearing held on May 30, 2007

I. Introduction and Purpose

A. Site Description

The parcel of public conservation land in Ipswich known as the “Shady Creek Conservation Area” (hereinafter “SCCA”) is a 44 acre parcel located southerly of Colonial Drive, easterly of the housing developments off Topsfield Road known as “Ipswich Woods” and “Riverpoint”, and bordered on the east by the Ipswich River. This parcel is under the formal care, custody and control of the Ipswich Conservation Commission pursuant to the March 3, 1975 Annual Town Meeting, via vote under Article 22, and is thus subject to the protection against reversion from conservation purposes afforded by Article 97 of the Massachusetts Constitution.

The SCCA is accessed by a walking trail from the cul de sac at the end of Colonial Drive southerly across an easement held by The Bayside Condominium Association benefiting the Town..

The parcel contains the following beneficial aspects/qualities::

1. Provides undisturbed wildlife habitat in the forms of riverfront and bank, swamp and wooded wetlands and wooded upland;
2. Contains surface water draining through several intermittent streams (“creeks”) into the Ipswich River above the Sylvania Dam;
3. Maintains vistas/wooded areas important to the aesthetic rural scenery and character of the area and of the Town;
4. Is adjacent to lands of Ipswich Woods and Riverpoint off Topsfield Road that are under Conservation Restrictions held by the Ipswich Conservation Commission; and
5. Protects substantial wetland frontage along the left bank of the Ipswich River.

This parcel is mostly wooded and contains a variety of habitat types. The attached Natural Resources Inventory (NRI) compiled by Seekamp Environmental Consulting, Inc. for the Town more fully describes the SCCA and its resources. The NRI identifies 7 different habitat types, extensive wetlands and intermittent streams, current activities within the site and potential historic/prehistoric land uses, and describes soils and topography. Several problems are noted.

The parcel is bisected by a strip of land of the Mass. Bay Transportation Authority through which runs the Newburyport Branch of the MBTA commuter rail lines. This strip separates the river frontage of the parcel from the larger inland portion. There are no other structures on the site, other than the remains of a small wooden foundation of a shed or like structure, and an informal canoe/kayak landing structure along the river bank (see the NRI).

Ownership Background

The Town of Ipswich purchased the fee simple interest in the two parcels comprising the SCCA from the M&L Realty Trust, John G. Markos, Trustee, by quitclaim deed dated December 14, 2006, following the unanimous vote approving Article 11 of the Special Town Meeting of October 16, 2006. This Article authorized the necessary borrowing; grant applications and acceptance; and conveyed the land so acquired to the care, custody and control of the Conservation Commission pursuant to MGL Ch. 40 S. 8C. The deed was recorded at the Essex County Registry of Deeds at Book 26403, Page 457 on 12/20/06. The property is protected against conversion to any other use,

or from disposal by the Town, as required by the Self Help Grant for assistance in the purchase for passive recreational use through (a) designation by the Town as Conservation Land per the assignment to the Conservation Commission, and (b) the provisions of Article 97 of the Mass. Constitution.

B. Designation of Formal Name of Parcel

This parcel is herein formally designated by the Conservation Commission as the “Shady Creek Conservation Area”. The name was unanimously adopted by the Conservaiton Commission from two entries by public school students in a Commission-sponsored naming contest for the area.

C. Ownership and Management Objectives

The SCCA is to be owned and maintained in perpetuity by the Town as open space and conservation land, under the care, custody and control of the Ipswich Conservation Commission. The land is protected for the purposes of natural resource protection, providing passive outdoor recreation, preserving wildlife habitat, and maintaining scenic vistas. Uses and activities consistent with these objectives and commitments will be permitted; all those not consistent will be prohibited as specified in more detail below. There will be no discrimination among users based on race, color, national origin, religion, disability, age or gender, nor other legally designated “suspect class.”

This Land Use and Management Plan is intended to preserve the existing character of the property as public use land, while maintaining its value for diverse habitat types and as Ipswich River watershed immediately proximateto the River. Active management to support these objectives is intended and anticipated. The management activities and usage restraints that will be undertaken and enforced are those necessary to (a) protect the natural resources and their effect on water quality, (b) maintain the wetlands and woods in their present locations and forms (i.e., clean, undamaged and as free as practicable from invasive or adverse vegetative species), and (c) protect wetlands and other wildlife habitat values. Public access will be provided across an easement from the cul de sac at the southerly end of Colonial Drive, through a limited short loop trail on the northern upland portion of the property, safely suitable for all permitted uses. A trail extension, as recommended in the NRI, will be considered.

D. Management Oversight and Advice/Stewardship Committee

The Shady Creek Conservation Area is under the direct administrative control and supervision of the Ipswich Conservation Commission or of its successor agency if any should manifest through action of law (hereafter collectively referred to as "the Commission"). The Commission shall be responsible for the care and supervision of the parcel in all regards, and shall exercise all management oversight. The Commission may seek or consider the input of various Town officials and departments, including but not limited to the Town Departments of: Public Works, Parks & Cemetery, and Public Safety. To the extent possible and if requested by the Commission, those departments will assist the Commission in its duties, as may be appropriate to their respective interests and responsibilities within the Town government.

A Stewardship Committee for the property may be established by the Commission, to serve in an advisory capacity only to the Commission, but the Commission shall not delegate direct final decision making authority to any such Committee. The Commission shall determine a reasonable number and makeup of members, to enable the advisory Committee to function in its role. If one is formed by the Commission, the Committee may initially consist of a member of the Conservation Commission, and a reasonable mix of representatives of the above Departments, interested citizens, a member of the Ipswich Bay Circuit Trail Committee, a member of the Ipswich Open Space Committee, and an interested representative of abutters to the property. The Conservation

Agent and Open Space Stewardship Coordinator will serve only as advisors to the Committee as necessary, but shall not serve upon it unless the Commission directly appoints either to that service. This group, if formed, will officially meet not less than once annually and otherwise as needed, but it shall meet at the call of any simple majority of the Conservation Commission, or at the call of the Conservation Commission Chair or Vice Chair, or at the call of the Stewardship Committee Chair or Vice Chair, or at the call of any authorized designated Town employee empowered by law to convene the Committee. The Committee's duties shall include consideration of the condition and use of the property, of any new or persisting problems thereon, including to assess any routine or special maintenance or cleanup efforts that may be needed, and to consider and propose any changes/additions/deletions to the Management Plan as may be recommended by any legitimate source, or as may become evident by usage patterns and/or problem occurrences. In the event any maintenance is needed, the Committee shall endeavor to arrange with the Ipswich Bay Circuit Trail Committee and/or other interested qualified groups, individuals or organizations, to organize the effort to conduct such maintenance. To conduct such work the Committee shall obtain any regulatory wetland approvals (if applicable) and administrative approval from the Commission; as well as obtain any and all other necessary permits or permissions of other regulatory authorities (if any, as may be applicable). When all such approvals are in place, the Committee or its contractors or partners in maintenance efforts shall then conduct said routine or special maintenance or cleanup efforts.

In the absence of a Stewardship Committee the Commission conducts the above tasks.

II. Usage of the Property

A. Overview

The guiding principle and purpose of the Land Use and Management Plan for the SCCA is to preserve the property and its characteristics as described in the NRI for natural resource protection, the future enjoyment of the public and the benefit of wildlife. Its beauty and quiet rural character, the peace that can be found there, its value as habitat, and its importance to the Ipswich River including flood storage are assets to be protected. The river bank itself is another protected asset of the property.

B. Permitted Uses

The property will be open from sunrise to sunset. Passive, non-motorized recreational activities in the upland portions of the area are allowed. These consist of wildlife observation, vista enjoyment, and photography; and, on the designated trail: walking, jogging, cross-country skiing, and snowshoeing. Notwithstanding the prohibition on motorized and motor-assisted vehicles below, the use of wheelchairs and/or non-recreational carts by physically-challenged persons is expressly permitted to the extent the area is accessible to such uses. (The designated trail is to be cleared but minimally improved only as necessary for safety.) Dogs are allowed but must be leashed at all times and dog owners must remove dog waste from the premises and properly dispose of it offsite, pursuant to the Town of Ipswich Dog Control/Dog Waste Bylaw. Failure to remove dog droppings may be cause for the Commission to declare a general prohibition of any entry onto this property by dogs, notwithstanding inability to prove who is committing violations.

C. Prohibited Uses

The property is closed from sunset to sunrise. During closure time, only duly authorized patrol persons may be present on the property. During closure times access to, presence upon, and use of the property for passage or any other purpose between the hours of sunset and sunrise by any unauthorized persons is strictly prohibited. Hunting is prohibited at any time for the entire parcel due to its configuration in proximity to both offsite residences and structures and to the railroad.

The property is legally posted against all forms of hunting. Fires and camping are prohibited. Possession and/or consumption of alcoholic beverages on the property is prohibited. Littering, the placement of refuse or waste of any kind on the property, the damaging or removal of vegetation or of signs, walls, trail components and fences, are all prohibited. Visitors must carry out all articles carried in, including trash.

It should be noted that the MBTA does not allow passage along or crossing of its ROW, here or elsewhere. Therefore the Commission cannot allow the river frontage to be accessed from the interior of the SCCA, nor its interior to be accessed through boat landings along the river frontage.

Motorized and motor-assisted vehicles and other powered equipment, including but not limited to cars, trucks, motorcycles, all-terrain vehicles (ATVs), off-road vehicles (ORVs), snowmobiles and any other motorized recreational or non-recreational vehicles are prohibited. This prohibition does not apply to governmental agencies duly authorized by law or by the Commission to enter in such vehicles for the purpose of property maintenance/inspections and/or for the purposes of patrol, rescue, fire control and/or other public safety emergencies as may be legitimately conducted by the Ipswich Department of Public Safety or other authorized public safety entity, and/or such inspections and patrols conducted by the Ipswich Conservation Commission.

D. Precautions and Warnings

- 1) Ticks, with the accompanying risk of contraction of Lyme Disease, are present in all vegetated areas in this region, and this property is no exception. Signage may be displayed at the site entrance alerting users to the Lyme Disease risk, and warning that use of the property is solely at the risk of the user.
- 2) Mosquitoes of various species are present as well and may carry diseases associated with any of those species.
- 3) Poison ivy is also present on the property in various locations, as are brambles and other vegetation that can cause injury or unpleasantness if not carefully avoided or promptly treated if contacted. Users should be aware of what the plants look like in their various stages, and should take every precaution to avoid contact.
- 5) Wetlands on the property are protected against entry. However, the Commission may authorize studies of vernal pools or other natural resource features under properly controlled circumstances.
- 6) All users should stay on the designated trail to minimize damages to the important natural resource values on this site.

III. **Maintenance of the Property**

A. Maintenance Activities

The Conservation Commission has ultimate responsibility for all maintenance aspects, projects, efforts and needs on any location upon this property. Any maintenance of the trail shall be pre-approved by the Commission, unless this Management Plan or any of the perpetual conditions in effect under any state and/or local wetlands permits allow differently. In any event, notice of such maintenance shall ALWAYS be given to the Commission in writing in advance, detailing start and end dates, nature of work, party conducting work, scope of work, exact location of work, materials to be used, protection of resource areas as is necessary, and a list of contact person(s) and contractors if any with phone numbers and addresses.

Pursuant to these approval strictures, the access trail will be maintained as needed by the Town of Ipswich. If usage increases to the extent that wear and erosion of the trail becomes a problem, management options to be considered may include properly approved changes to trail locations and/or identification and limitation of uses found to be causing the most wear or other problems.

The Commission will seek to follow the recommendations in the NRI with respect to management of invasive species.

No forestry management practices are currently planned, however there may be a time in the future when the Conservation Commission in its sole discretion may approve such practices by professional foresters applying approved forestry management practices. Vehicle exclusion barriers may be installed at the Commission's discretion, if warranted. Necessary signage will be installed, maintained, replaced or restored as needed.

B. Responsibility for Ordinary Maintenance

The Town, through the Conservation Commission, has ultimate responsibility for maintenance of the property as stated above. The Commission will exercise oversight of that maintenance. The Stewardship Committee may also solicit voluntary contributions of services or materials by landscapers or others, or the support of other interested persons or entities (in a manner similar to local support of roadway maintenance), for the conduct of necessary or routine maintenance on the property. That process may involve using Open Space, Water Supply and Recreation Fund monies or other grant or contributed funds, materials or services, as needed, as allowed and as available.

C. Responsibility for Extraordinary or Unusual Maintenance

Extraordinary or unusual maintenance (e.g., restoration or reconstruction of damaged or obliterated trails or trail features, remediation of erosion, replacement or repair of signs, barriers or other features, resurfacing of parking areas (if any), or control of invasive species), will be the responsibility of the Town and may be conducted as and when deemed necessary but only as approved by the Conservation Commission and/or its designees should it empower any. The Committee and/or Commission will seek out the assistance of the Town Departments of Public Works and Parks and Cemeteries in order to undertake a review of these necessities and may involve those departments to assist with conducting them.

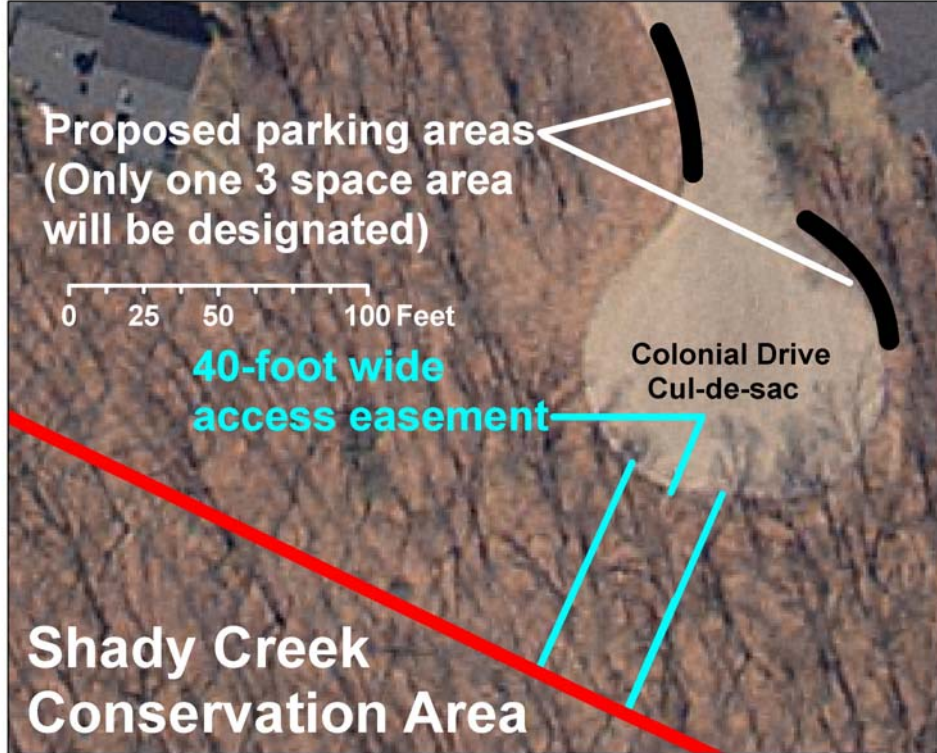
The Seekamp NRI makes a number of significant recommendations for future correction or enhancement of existing conditions, for addressing problem situations, and for trail extension. These recommendations will be carefully considered under the auspices of the Commission during the remainder of the calendar year.

IV. Parking, Access Trail

Limited parking for three vehicles is to be made available through action of the Board of Selectmen, on Colonial Drive or on its cul de sac, and will be so marked. The access trail to the SCCA land originates on the southerly side of the cul de sac, across an easement held by the abutting condominium association benefiting the Town (see next page), and will be so marked.

V. Universal Access and Access by Persons with Disabilities

No alteration of the current condition or state of the property (other than trail clearing and marking) is contemplated, with regard to the use and access to the property to physically challenged persons. Existing trails will remain as contemplated and approved in the authorized location and in the future as-constructed condition, unless it is determined by the Commission and other applicable authorities, if any, that trail relocation or elimination is required consistent with the purposes for which the property is managed.



VI. Signage

An information kiosk with signs will be placed at the access point off Colonial Drive, and will list permitted and prohibited hours of access and activities. Trail markers may be placed. Additional small signs may be placed along the trail at wetland boundaries prohibiting access to them. Property limits will be appropriately marked. The property will be posted against hunting.

VII. Enforcement and Public Safety

The Ipswich Police Department will provide surveillance of the property and will enforce the posted rules as appropriate. Conservation Commission and Open Space Committee members and designated volunteer land stewards if any, will provide supplemental property inspection oversight, as time and resources permit.

VIII. Conformance with Existing Regulations

On July 29, 2002 the Town of Ipswich adopted regulations governing the use of Town-owned land, which are set forth in a document entitled "Town of Ipswich, Massachusetts, Regulations on the Use of Unimproved Town Lands" which is attached and made part hereof, except insofar as it alters the hunting prohibition on this parcel, which prohibition is specific to this unique parcel and supercedes the general Town Land usage regulations. Also attached is the document entitled "Town of Ipswich Use of Town Land Regulations" (11/01/79, as amended 8/1/02), which is also made part hereof, excepting insofar as it alters the hunting prohibitions on this parcel for the same reasons. Except as otherwise specifically stated herein, or hereafter amended by the Commission, the property designated as Shady Creek Conservation Area shall be subject to all of those regulations, to this Management Plan, to any perpetual conditions of any Commission Order of Conditions, to any rules set for this parcel by the Commission or to any additional regulations the Commission may institute for this parcel or for any group of parcels under its care, custody and control, as allowed by law.

IX. Plan Revisions

This Plan may further be revised, modified, added-to, limited, changed, replaced or revoked in the future for any cause deemed necessary or advisable at that time by any simple majority of the Ipswich Conservation Commission, but in its sole discretion. Except in an emergency situation, any significant change shall be preceded by reasonable opportunity for public review and comment.

X. Incorporated Attachments:

Natural Resources Inventory Report for the SCCA (Seekamp Environmental Consulting, Inc., May 22, 2007)

GIS ortho photo plan titled Shady Creek Conservation Area, including depicted trail, dated

Topographic and Vegetation Plan (from USGS quadrangle)

Town of Ipswich Regulations on the Use of Unimproved Lands (8/1/02)

Town of Ipswich Use of Town Land Regulations (11/01/79, amended 8/1/02)

Access easement by condominium association

XI. Effective Date

This document takes effect as of the signature date of the Conservation Commission below. That date shall be set forth on the cover sheet of this document, identifying the effective date thereon for future reference without perusing the document for the date. The words "Final Draft" on the cover page of this document shall be stricken from the page upon finalization of the effective date hereof.

XII. Signatories

Conservation Commission (Administrative Adoption Approval)

By: _____, Vice-Chair, on behalf of the Conservation Commission,
Jennifer Hughes; duly authorized by majority vote of the Commission taken on June __, 2007

Signature Date: June __, 2007

Concurrence Acknowledgement/Acceptance by Other Town Boards and Departments:

Board of Selectmen By: _____, Chair, on behalf of the Board of Selectmen
Elizabeth Kilcoyne; duly authorized by majority vote of the Board taken on _____, 2007

Signature Date: _____

Department of Public Safety:

_____, Director, duly authorized; Date: _____

Department of Public Works:

_____, Director, duly authorized; Date: _____

Department of Parks and Cemeteries:

_____, Director, duly authorized; Date: _____

Department of Planning and Development:

_____, Director, duly authorized; Date: _____

Recreation Department:

_____, Director, duly authorized; Date: _____

Ipswich Bay Circuit Trail Committee:

_____, Chairman, duly authorized; Date: _____