

CR Monitoring: #1 Priority for Land Stewardship

Matt Spinner- Buzzards Bay Coalition

Doug Bruce- Berkshire Natural Resources Council

Matt Cannon- Chatham Conservation Foundation &
Harwich Conservation Trust

Who we are

- Protect Bay watershed resources & uses
- 8,000+ members
- Westport to Falmouth & Islands

How we do that

- *Conservation* & restoration
- Outreach & engagement
- Policy advocacy
- Science

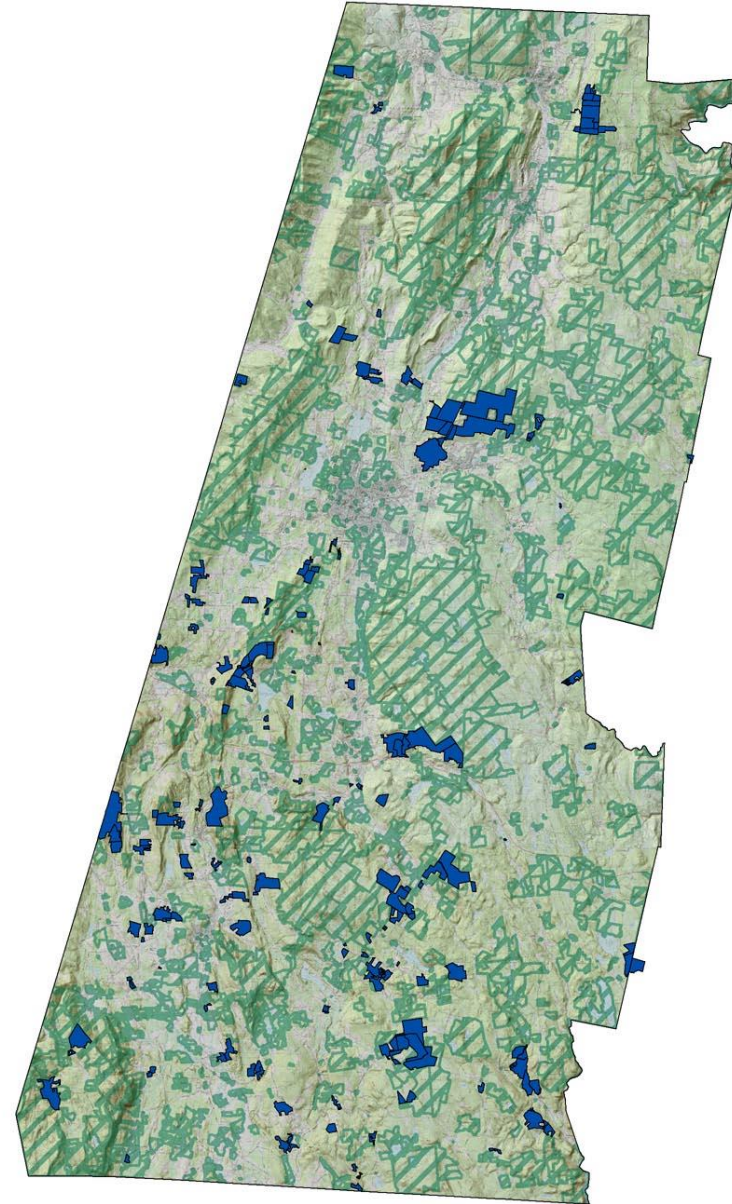
Land *Conservation*

- Own/manage 3 “river reserves” totaling 400+ ac
- 1,800 ac in CR
- Helped protect ~7,000 ac



Berkshire Natural Resources Council

- ▶ Berkshire County
- ▶ Founded in 1967 with mission that included “an interest in... the rural leisure home movement”
- ▶ 2016 mission: To protect and preserve the natural beauty and ecological integrity of the Berkshires for public benefit and enjoyment
- ▶ 21,039 acres conserved
 - ▶ 10,065 acres owned
 - ▶ 10,974 acres under CR
 - ▶ 102 CRs
 - ▶ From 3 to 1,700 acres





Part 3: Matt Cannon, Land Stewardship Coordinator at Harwich Conservation Trust & Chatham Conservation Foundation

CCF: Manages 800+ acres, including 40 CRs

HCT: Manages 500+ acres, including 13 CRs



Photo courtesy
of HCT Volunteer
(J.D.)

CR Monitoring: #1 Priority for Land Stewardship

Matt Cannon, Land Stewardship Coordinator
Chatham and Harwich Conservation Trusts

Doug Bruce, Stewardship Manager
Berkshire Natural Resources Council

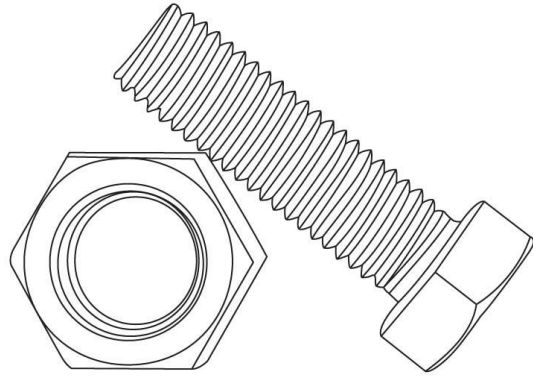
Matt Spinner, Land Stewardship Director
Buzzards Bay Coalition

Conservation Restrictions (CRs)

“A voluntary legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values.” (LTA definition)

- ▶ Land protection tool
- ▶ Conservation entity doesn't own the land
- ▶ Typically established in perpetuity
- ▶ Carry significant long-term stewardship responsibilities including monitoring and enforcement of easement terms





The nuts and bolts of Stewarding CRs

- ▶ **Baseline Documentation Report creation**
 - ▶ Create a benchmark for future comparison
 - ▶ Finding, mapping boundaries
- ▶ **Ongoing monitoring, record keeping**
 - ▶ What and how to document
 - ▶ Landowner interactions
- ▶ **Violation resolution**
 - ▶ Insure compliance into perpetuity, defend easement

Baseline Document Report aka: “BDR”

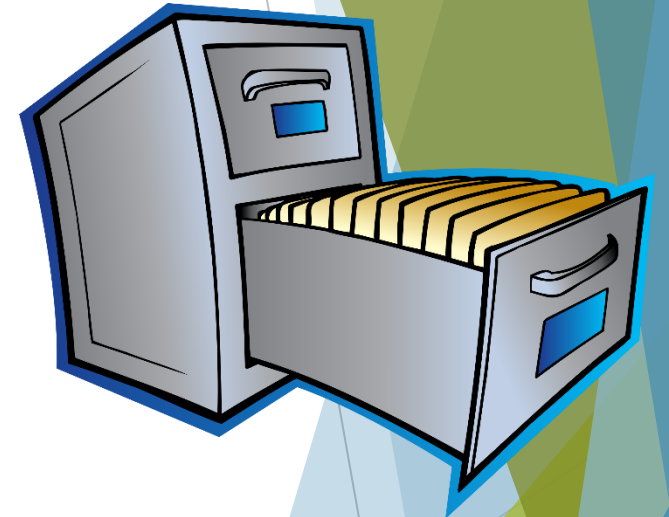
- ▶ “A written report that accurately portrays the condition of the property as of the date that the conservation restriction was recorded, and serves as a benchmark for comparison against future conditions.” -Mass CR Stewardship Manual
- ▶ Contains:
 - ▶ Directions to site
 - ▶ History and chronology
 - ▶ Property conditions description
 - ▶ Site maps (survey, aerial, boundary)
 - ▶ Photographs (log, GPS locations)
 - ▶ Executed CR, and CR summary
 - ▶ Affidavits (preparer, landowner, holder)



Stages of BDR Preparation

- ▶ Pre-field information gathering
 - ▶ Deeds, surveys, maps
- ▶ Field data collection
 - ▶ Physically visiting property to collect GPS info and photographs
- ▶ Data processing and report writing
- ▶ Collecting signatures and finalizing report

In a Nutshell, BDRs are an exercise in data and document collection



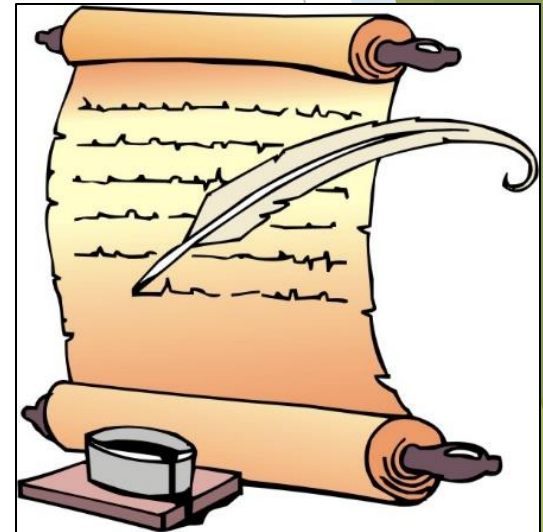
Where to start?

Find any existing recorded deeds and survey plans

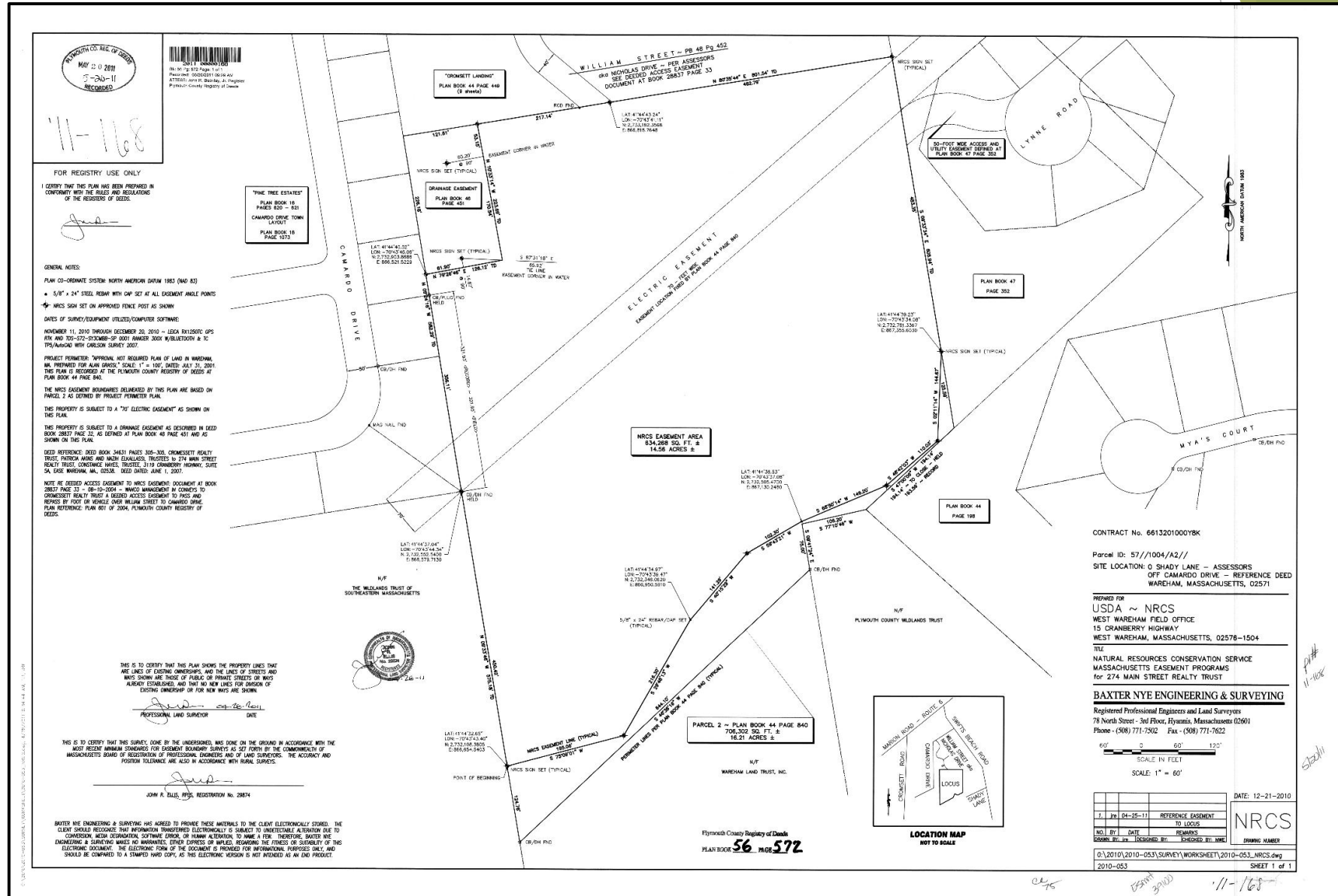
- ▶ CRs are recorded w/ County registry of Deeds
 - ▶ Will have written “legal descriptions” of boundaries
- ▶ Ownership deeds may refer to CRs
- ▶ Survey Plans (maps)
 - ▶ Plans depicting boundary corner points, property lines, distances
 - ▶ Can use adjacent surveys of abutting parcels to piece together boundaries

Where to find these records?

- ▶ Check your land trust's records
- ▶ Ask property owner (grantor) or neighbors for help
- ▶ Municipal records
 - ▶ Planning, building, conservation, assessing dept.'s
- ▶ County Registry of Deeds
 - ▶ Searchable online databases
 - ▶ Check for grantor's deed/survey
 - ▶ May require working through previous ownership



Survey Plans



PLANNING & CONSTRUCTION
 MAY 20 2011
 5:20-11
 RECEIVED

FOR REGISTRY USE ONLY
 I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTRARS OF DEEDS.

GENERAL NOTES:
 PLAN CD-ORIENTED SYSTEM NORTH AMERICAN DATUM 1983 (NAD 83)
 • 5/8" x 24" STEEL REBAR WITH COP SET AT ALL EASEMENT ANGLE POINTS
 • NRCS SIGN SET ON APPROVED FENCE POST AS SHOWN
 DATES OF SURVEY/EQUIPMENT (FILED)/COMPUTER SOFTWARE:
 NOVEMBER 11, 2010 THROUGH DECEMBER 20, 2010 - LEICA DISTO/DIGI GPS RIN AND 30-372-3730000-SP 0001 ANIMEX 3000 W/BULETODON & IC TPS/ARCAD with Carlson SURVEY 2007.
 PROJECT PERMETER: APPROVAL NOT REQUIRED PLAN OF LAND IN WARDHAM, MA. PREPARED FOR BAXTER NYE ENGINEERING & SURVEYING, 77 1/2 MAIN STREET, REALTY TRUST, CONCORDANCE HOTEL TRUST, 3119 CONCORDIA HIGHWAY, SUITE 2A, LOUIS, MASSACHUSETTS. DEED DATED JUNE 1, 2007.
 THE NRCS EASEMENT BOUNDARIES INDICATED BY THIS PLAN ARE BASED ON PARCEL 2 AS DEFINED BY PROJECT PERMETER PLAN.
 THE PROPERTY IS SUBJECT TO A "T" ELECTRIC EASEMENT AS SHOWN ON THIS PLAN.
 THIS PROPERTY IS SUBJECT TO A DRAINAGE EASEMENT AS DESCRIBED IN DEED BOOK 2887 PAGE 32, AS DEFINED AT PLAN BOOK 40 PAGE 451 AND AS SHOWN ON THIS PLAN.
 DEED INTRODUCED: DEED BOOK 3423 PAGES 305-308, CHROMSETT REALTY TRUST, FRANCHISE AND MAIN CANADIAN TRUSTS, BY 274 MAIN STREET REALTY TRUST, CONCORDANCE HOTEL TRUST, 3119 CONCORDIA HIGHWAY, SUITE 2A, LOUIS, MASSACHUSETTS. DEED DATED JUNE 1, 2007.
 NOTE RE DEEDED ACCESS EASEMENT TO NRCS EASEMENT DOCUMENT AT BOOK 2887 PAGE 32 - 08-10-2004 - WINDCH MANAGEMENT IN COMEY TO CHROMSETT REALTY TRUST A DEEDED ACCESS EASEMENT TO PACE AND REPAIR BY FOOT OR VEHICLE OVER WILLIAM STREET TO CAMARDO DRIVE. PLAN REFERENCE: PLAN 607 OF 2004, PLAINBORO COUNTY REGISTRY OF DEEDS.

"TRIN TREE ESTATES"
 PLAN BOOK 14
 PAGES 808 - 831
 CAMARDO EDGE TOWN
 PLAN BOOK 15
 PAGE 1073

"TORNSETT LANDING"
 PLAN BOOK 44 PAGE 440
 (3 SHOTS)

NRCS EASEMENT AREA
 834,268 SQ. FT. ±
 14.58 ACRES ±

PARCEL 2 - PLAN BOOK 44 PAGE 840
 706,302 SQ. FT. ±
 16.21 ACRES ±

PLAN BOOK 41
 PAGE 302

PLAN BOOK 44
 PAGE 198

CONTRACT No. 6613201000YBK
 Parcel ID: 57//1004/A2//
 SITE LOCATION: 0 SHADY LANE - ASSESSORS OFF CAMARDO DRIVE - REFERENCE DEED WAREHAM, MASSACHUSETTS, 02571

PREPARED FOR
 USDA - NRCS
 WEST WAREHAM FIELD OFFICE
 15 CRANBERRY HIGHWAY
 WEST WAREHAM, MASSACHUSETTS, 02578-1504
 TITLE
 NATURAL RESOURCES CONSERVATION SERVICE MASSACHUSETTS EASEMENT PROGRAMS FOR 274 MAIN STREET REALTY TRUST

BAXTER NYE ENGINEERING & SURVEYING
 Registered Professional Engineers and Land Surveyors
 78 North Street - 3rd Floor, Hyanis, Massachusetts 02601
 Phone - (508) 771-7502 Fax - (508) 771-7622

60' 0 60' 120'
 SCALE IN FEET
 SCALE: 1" = 60'

DATE: 12-21-2010

J	DR	DATE	REFERENCE	TO
		04-20-11	REFERENCE EASEMENT	TO LOCUS

NO. BY DATE REVISIONS
 DRAWN BY: JRS DESIGNED BY: JRS CHECKED BY: JMS
 PLAN NUMBER: 2010-053

NRCS

0:\2010\2010-053\SURVEY\WORKSHEET\2010-053_NRCS.dwg
 2010-053 SHEET 1 of 1

THIS IS TO CERTIFY THAT THIS PLAN SHOWS THE PROPERTY LINES THAT ARE LINES OF EXISTING OWNERSHIP, AND THE LINES OF STREETS AND EASEMENTS ARE THOSE OF PUBLIC OR PRIVATE STREETS OR EASEMENTS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW EASEMENTS ARE SHOWN.

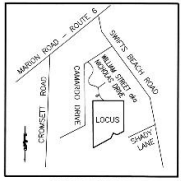
PROFESSIONAL LAND SURVEYOR DATE

THIS IS TO CERTIFY THAT THIS SURVEY, DONE BY THE UNDERSIGNED, WAS DONE ON THE GROUND IN ACCORDANCE WITH THE MOST RECENT MINIMUM CONSENSUS FOR EXISTING BOUNDARY SURVEYS AS SET FORTH BY THE COMMISSIONERS OF MASSACHUSETTS BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND OF LAND SURVEYORS. THE ACCURACY AND POSITION TOLERANCE ARE ALSO IN ACCORDANCE WITH MINIMUM SURVEYS.

JOHN A. ELLIS, REG. REGISTRATION NO. 29874

BAXTER NYE ENGINEERING & SURVEYING HAS AGREED TO PROVIDE THESE MATERIALS TO THE CLIENT ELECTRONICALLY. THE CLIENT SHOULD RECOGNIZE THAT INFORMATION TRANSMITTED ELECTRONICALLY IS SUBJECT TO UNEXPECTED ALIENATION DUE TO COMPUTER WITH CORRUPTION, SOFTWARE ERROR, OR HUMAN NEGLIGENCE. TO AVOID THIS, THE CLIENT SHOULD PRINT THIS INFORMATION AND SIGNATURE. ENGINEERING & SURVEYING MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE FITNESS OR SUITABILITY OF THE ELECTRONIC DOCUMENT. THE ELECTRONIC FORM OF THE DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND SHOULD BE COMPARED TO A STAMPED HARD COPY OF THE ELECTRONIC VERSION & NOT INDEXED AS AN END PRODUCT.

Plymouth County Registry of Deeds
 PLAN BOOK 56 PAGE 572



LOCATION MAP NOT TO SCALE

CL 76
 12/21/10
 11-168

Deeds and Plans Make Reference to *Boundary Markers*

- ▶ Concrete/stone bounds
- ▶ Drill holes in rocks
- ▶ Iron Pins
- ▶ Rebar
- ▶ Pipes
- ▶ Tree Blazes
- ▶ Barbed wire fence
- ▶ Old survey stakes



Old Records

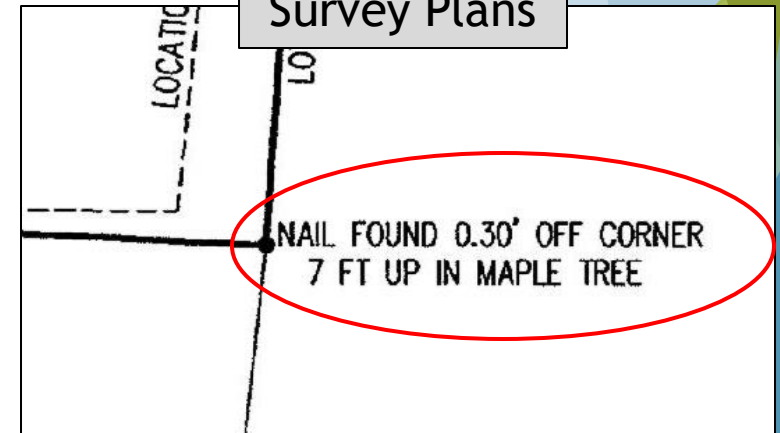
Deeds

75

acknowledged, do hereby give, grant, bargain, sell and convey unto the said Dennis Mahoney, a certain tract or parcel of land situated in that section of said Mattapoisett known as Dinkelhamtown, the same being my homestead farm as indicated by me from my father the late Isaac D. Dinkelham, and is bounded and described as follows, to wit, Beginning at the Northeastly corner thereof at a point where the Westerly and Southerly lines of the highway intersect to form a corner opposite the school house and the Chapel in said Dinkelhamtown; thence in the South line of the highway West five degrees North (W. 5 N) sixty four rods to an angle; thence in the said highway line South forty three and 7/8 degrees West (S. 43 7/8 W) nine rods and thirteen links to a stone post; thence in line of land of William D. Dexter, South six degrees West (S. 6 W) thirty eight rods and twenty two links; thence South one degree West (S. 1 W) fifteen (15) rods and twenty three (23) links in line of land of Rachel Ellis to a corner; thence in line of said Ellis' land West five degrees North (W. 5 N) four (4) rods six (6) links to the end of a well; thence still in line of said Ellis' land to the brook, and thence on in line of land of this grantee the course being South two degrees East (S. 2 E) eighty five (85) rods five (5) links to a stone post; thence in line of said East named land of grantee, West fourteen degrees South (W. 14 S) thirty three rods (33) and nineteen (19) links to a stone and stone in the town line between Dairhaven and Mattapoisett; thence in said town line, it being in line of land of Thomas C. Dinkelham, South three and 1/2 degrees East (S. 3 1/2 E) twenty eight (28) rods nineteen (19) links to a stone post; thence East two degrees South (E. 2 S) in line of land of Henry D. Howland, eighty (80) rods twenty (20) links to a stake in line of land of the heirs of William E. Sparrow; thence in line of said Sparrow land and of land of Leonard Randall and of George P. Randall North four and 1/4 degrees East (N. 4 1/4 E) 7 rods and course being "the Old North Line" so called, ninety six (96) rods to a stone post by the brook; thence Easterly in the line of the brook the course being the line of land of George P. Randall, to a blown down maple tree lying in the brook and stake standing thereby; thence from said stake East eight and 1/2 degrees South (E. 8 1/2 S) in line of land of Thomas A. Dinkelham, thirteen (13) rods thirteen (13) links to the Westerly line of the highway leading from Mattapoisett village to Dinkelhamtown; thence in the line of

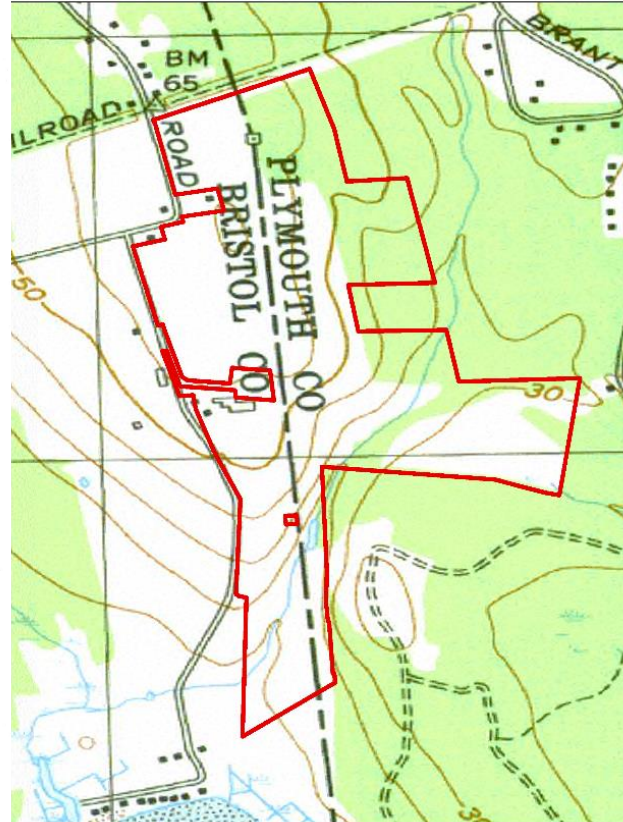
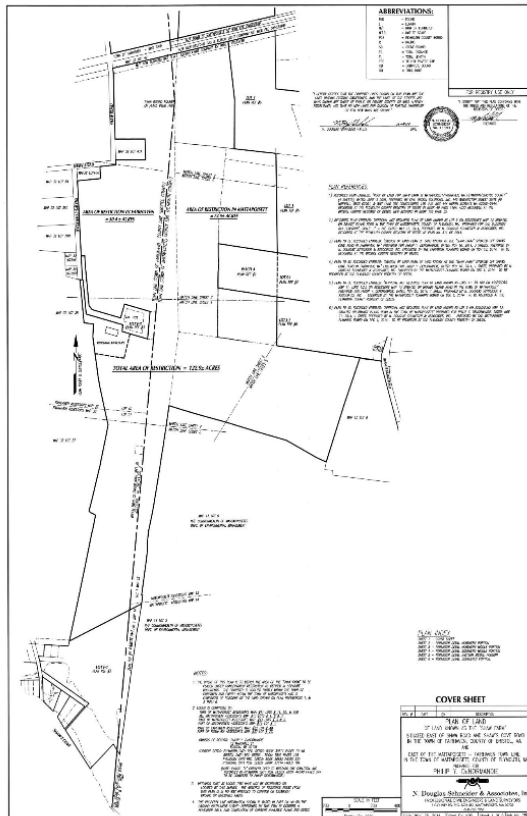
“...thence Easterly in the line of the brook the same being the line of land of George P. Randall, to a blown down maple tree lying in the brook and stake standing thereby...” (1906)

Survey Plans



Prep Reference Documents for BDR Site Visit

- ▶ Gather available maps: Aerial photos, USGS topos, surveys, etc.
- ▶ Make notes showing entrance points, expected corner and line monuments, key natural/manmade landmarks, planned walking route
- ▶ Upload boundary files onto your GPS



Map Sources Other Than Arc GIS

- ▶ Google maps
- ▶ Some town assessors
- ▶ MassGIS online (OLIVER)

- ▶ Plat Plotter (for metes and bounds)
- ▶ Many other free open source GIS options

Quick Zooms

Find Properties

Owner:

Parcel ID:

Address:

Results Summary

Parcels for Identify

Parcel ID	Address	Owner
22.0-7.0	141 ACUSHNET RD BUZZARDS BAY CO.	

Detail Information [Zoom To](#)

2016 Property Cards	Open
Map Par ID	022.0-0000-0007.0
Loc ID	M_254274_825008
Parcel ID	22.0-7.0
Photo	
PID	3996
Vision ID	3996
Address	141 ACUSHNET RD
Street Name	ACUSHNET RD
Street Number	141
Unit Number	
Account Number	RR8
Map	22.0
Map Cut	
Block	
Block Cut	
Lot	7.0
Lot Cut	
Unit	
Unit Cut	
GIS ID Vision	
RE Use Code	9320
Site Index	0
Use Code	9320
Use Description	Charitable Vacant M00
Use Code2	
Use Description2	
Use Code3	
Use Description3	
Zone	RR8
Zone Description	
Acresage	199.00
Neighborhood	0001
Neighborhood Adjacent	0.9
Land Frontage	1900
Land Assess	127800
Owner	BUZZARDS BAY COALITION

SimpliCITY by PeopleGIS

Plat Plotter 1.42.5, Thu, 07 Jan 21:05. Welcome, Guest. [Sign in or register.](#)

Survey Start: 41.67233 -70.86611 Declination: declination

Plat start point is (41.672,-70.866), with 6 legs, 9.0 acres. Closes to 13.7 feet.

Survey data:

Leg	N,S	D	M	S	E,W	Feet
1	N	29	48	12	E	450.57
2	N	32	36	13	E	213.46
3	S	73	43	30	E	534.23
4	S	15	41	45	E	587.95
5	N	73	17	43	W	767.02
6	S	73	6	40	W	275.00

Survey error 13.7 at 288.7 degrees over 2,828 feet. (0.48%)

Point	Survey call	Bearing	Latitude	Longitude
1	N 29 48 12 E 450.6	30	41.6723	-70.8661
2	N 32 36 13 E 213.5	33	41.6734	-70.8653
3	S 73 43 30 E 534.2	106	41.6739	-70.8648
4	S 15 41 45 E 588.0	164	41.6734	-70.8629
5	N 73 17 43 W 767.0	287	41.6719	-70.8623
6	S 73 6 40 W 275.0	253	41.6725	-70.8651
end	Survey error 14 feet	288.7	41.6723	-70.8660

Last call: N 71 20 24 W 13.7 feet.

Satellite

How current are your maps?



Further BDR Site Visit Prep

- ▶ Review the CR, note any unique or important provisions
 - ▶ Structures
 - ▶ Reserved rights (building envelope, forestry/agriculture, etc.)
 - ▶ Special resources (sensitive habitats)
- ▶ Talk with the land owner, ask relevant questions about the property:
 - ▶ Are you aware of any encroachments?
 - ▶ Have you noticed any interesting wildlife?
 - ▶ Are there any trails (walking, ATV, snow machine)?
 - ▶ Have there been past issues with trespassing?
 - ▶ Remember: take notes after all conversations



Gather Field Tools



Navigation and Boundary marking tools are essential

You've done all this work; make sure you can easily make your way back for ongoing monitoring

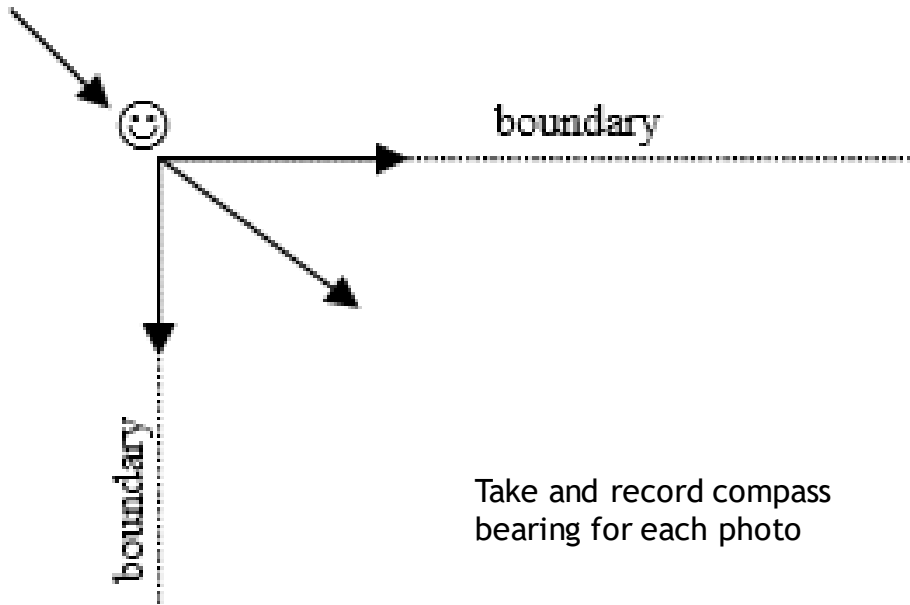
BDR Site Visit: Where to Walk

- ▶ Boundary lines
- ▶ Major public or social trails
- ▶ Clearings, areas of disturbance



BDR Site Visit: What to document

- ▶ Photograph:
 - ▶ Boundaries
 - ▶ Boundary markers (pins, stakes, fence lines, etc.)
 - ▶ Important resources
 - ▶ Manmade features
 - ▶ Areas of previous or potential encroachment
- ▶ Your purpose is to give accurate representation of the property conditions
- ▶ Always keep the CR provisions in mind!



Take and record compass bearing for each photo



BDR Site Visit: What to document

- ▶ Importance of GPS and photographic data collection
- ▶ Think about needing to find that spot again for future monitoring



Data processing/BDR writing

- ▶ Process field data:
 - ▶ Download photos
 - ▶ Photo point location table w/ descriptions
 - ▶ Make Photo Log →
 - ▶ Make maps
 - ▶ Photo point map
 - ▶ Aerial map
 - ▶ USGS topo
- ▶ Write report
 - ▶ Refer to Mass Conservation Restriction Manual for details
 - ▶ Directions, site history, property conditions description, executed CR, CR summary, affidavits of preparer, landowner, holder...



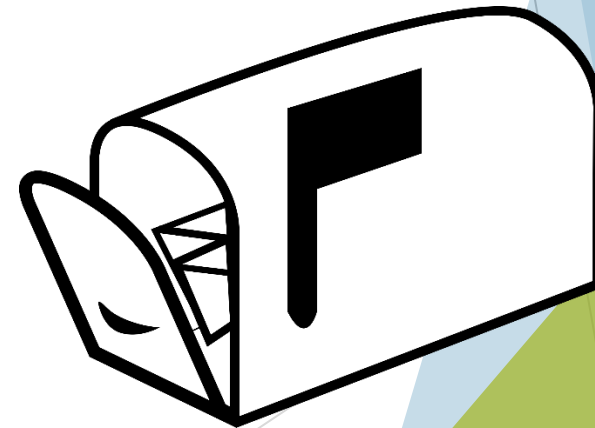
Photopoint 53: 310 degrees, stonewall runs along boundary



Photopoint 53: 117 degrees, stonewall runs along boundary

Wrapping BDR Up

- ▶ Collect endorsement signatures from all concerned parties
 - ▶ Notarize?
- ▶ Print and distribute copies
 - ▶ 1 office reference copy
 - ▶ 1 archival copy (consider digital archive as well)
 - ▶ 1 for landowner
 - ▶ 1 for co-holder (if any)
- ▶ Digitize full report



Monitoring CRs

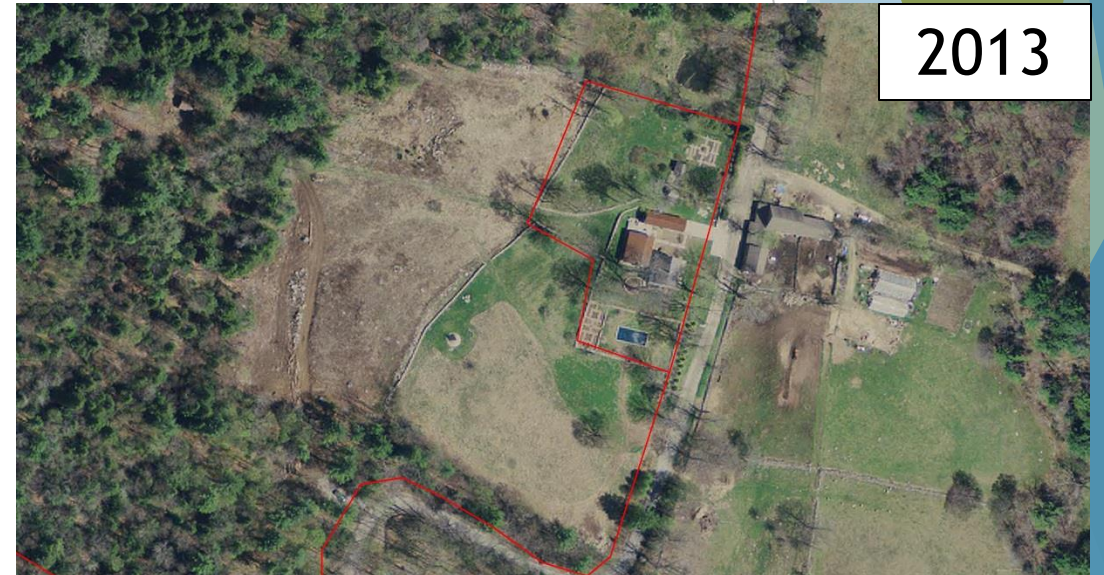
Why do it?

- ▶ You have to!
 - ▶ IRS
 - ▶ Mission
 - ▶ Required by CR Grantors
 - ▶ Required by LT supporters
 - ▶ Required by your colleagues
- ▶ To nip problems in the bud
- ▶ To cultivate relationships

Monitoring your CRs

When do you do it?

- ▶ At least annually
- ▶ As often as feels right



Monitoring your CRs

- ▶ Contact
- ▶ Research
 - ▶ Registry
 - ▶ CR
 - ▶ Baseline
 - ▶ Monitoring reports
- ▶ Get ready
- ▶ The visit
- ▶ Follow-up

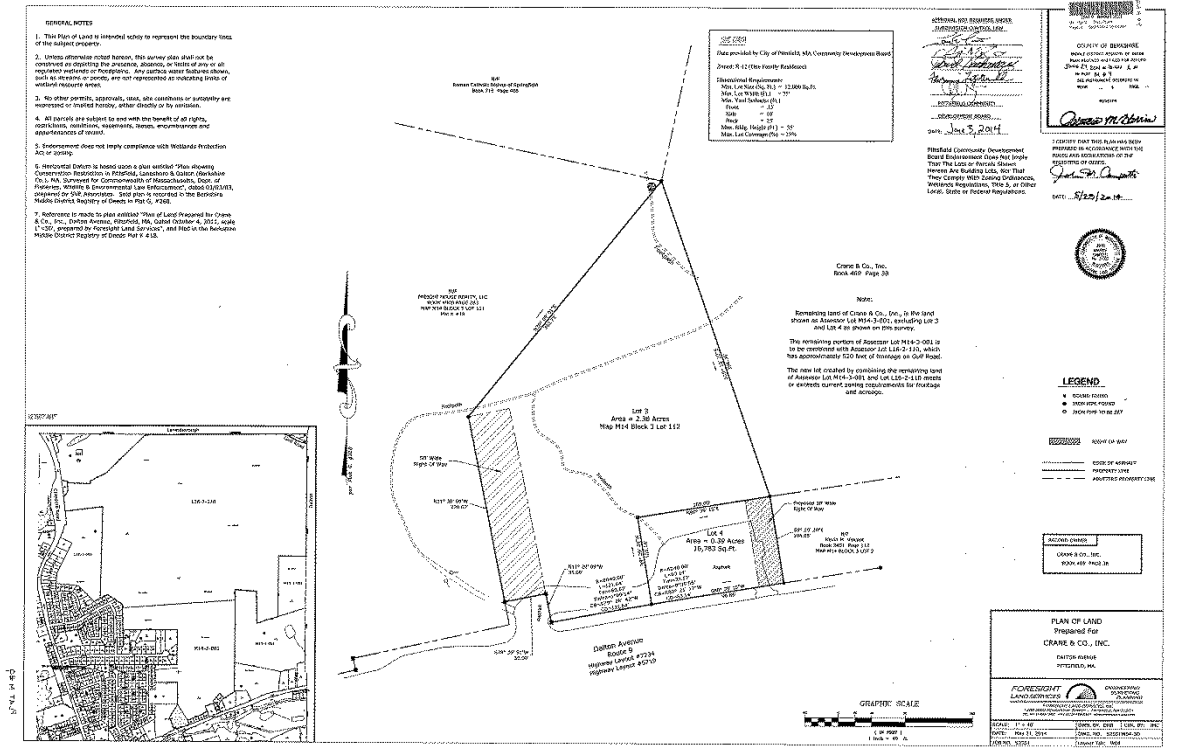


Monitoring your CRs

- ▶ Landowner contact
 - ▶ Letter three weeks before
 - ▶ Phone call one week before
- ▶ Encourage landowner to meet
 - ▶ Chance to engage them with mission
 - ▶ Chance to answer questions
 - ▶ Where and what is acceptable per CR?
 - ▶ What's a CR?
 - ▶ Weren't you just here?
 - ▶ Chance to head-off problems
 - ▶ Chance to update contact info.

Monitoring your CRs

- ▶ Check Registry of Deeds
 - ▶ Any change in ownership?
 - ▶ Was CR incorporated by reference?
 - ▶ Any new surveys?



Monitoring your CRs

- ▶ Know the Conservation Restriction
 - ▶ Grantor and Grantee
 - ▶ Whereas clauses
 - ▶ Prohibited uses
 - ▶ Reserved rights
 - ▶ Exclusions and Envelopes

CONSERVATION RESTRICTION
from
DOMINIC KONSTAM
to
BERKSHIRE NATURAL RESOURCES COUNCIL, INC.



What is A CR?

The Grantor

The Grantee

THIS GRANT DEED OF CONSERVATION RESTRICTION is made this ___ day of _____, 2012 by DOMINIC KONSTAM, with an address at 28 Silverbrook Road, his successors and assigns (collectively "Grantor"), in favor of the BERKSHIRE NATURAL RESOURCES COUNCIL INC., (BNRC) BNRC being a Massachusetts charitable corporation with a post office address at 20 Bank Row, Pittsfield, MA 01201, their successors and permitted assigns (collectively "Grantee"), in perpetuity and exclusively for conservation purposes, on a parcel of land located in the Town of Sandisfield, Massachusetts constituting approximately 260 acres (the "Premises"), and more particularly described in Exhibit A and sketch plan attached hereto and incorporated by this reference, (hereinafter the "Premises"), said Premises being a portion of the premises conveyed to the Grantor by deed dated December 13, 2003 and recorded December 16,2003 in the Southern Berkshire Registry of Deeds in Book 1493, Page 101.



Registry of Deeds

► Whereas clauses describe the specific conservation values of the CR

WITNESSETH:

WHEREAS, Grantor, acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the General Laws, grants, for no consideration as this conveyance is a gift, with quitclaim covenants, to Grantee, in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction on the aforementioned parcel of land located in the Town of Sandisfield, County of Berkshire, Commonwealth of Massachusetts; and

WHEREAS, Berkshire County in general and the Town of Sandisfield in particular, have in recent years come under increasing development pressure, and such development destroys or otherwise severely impacts the natural resources, scenic beauty, and open character of the area; and

WHEREAS, the Premises possess significant natural, scenic, and open space values (collectively, "conservation values") of great importance to the Grantor and the inhabitants of the Town of Sandisfield and Berkshire County; and

▶ Prohibited uses strip away many of the Grantor's rights

3. Prohibited Uses. Subject to the reserved rights set forth in paragraph 4 below, the following are prohibited and neither the Grantor nor the heirs, devisees, successors, or assigns of the Grantor will perform or permit the following acts or uses on, over or under the Premises:

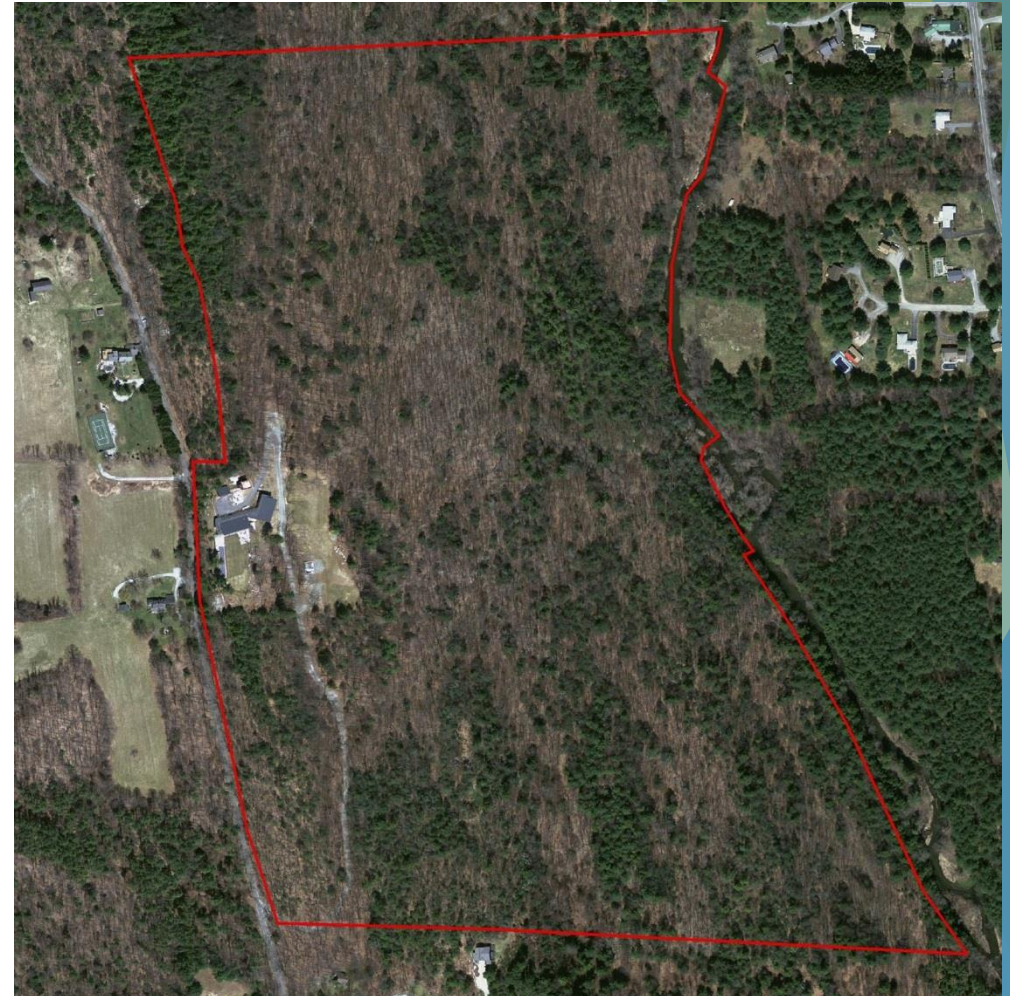
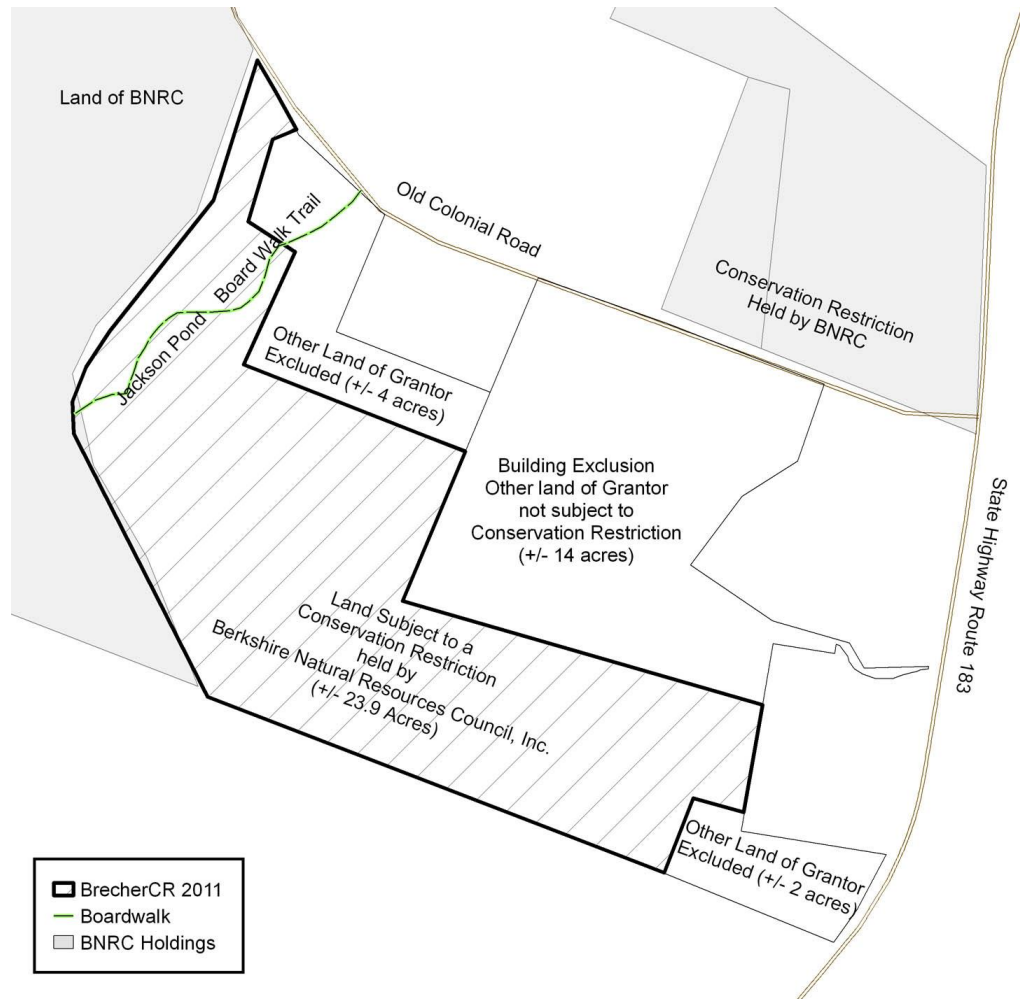
- (a) constructing or placing of any building, communication tower, wind turbine, mobile home, sign, billboard or other advertising display, or other temporary or permanent structure or facility of any nature or description whatever on or above or below the Premises;

- ▶ Reserved rights give back rights removed in Prohibited uses

- ▶ Important to read Prohibited and Reserved carefully

4. Reserved Rights. The provisions of paragraph 3 notwithstanding, the following rights, uses, and activities by the Grantor and its heirs, devisees, personal representatives, successors and assigns shall not be prohibited by this Conservation Restriction and shall be deemed not inconsistent with the purpose of this Conservation Restriction provided that they do not materially impair the conservation value of the premises:

Building exclusion versus building envelope





- ▶ Gear

- ▶ Maps and baseline

- ▶ GPS

- ▶ Compass

- ▶ Camera

- ▶ Batteries

- ▶ Notebook and pencils

- ▶ Flagging

- ▶ Snack and water

- ▶ Dashboard placard

Monitoring your CRs

- ▶ Monitoring visit
 - ▶ Allow plenty of time - don't be rushed
 - ▶ Invite the landowner
 - ▶ Plan your route
 - ▶ External boundaries
 - ▶ Exclusion boundaries
 - ▶ Historical problem areas
 - ▶ Any area not visited recently

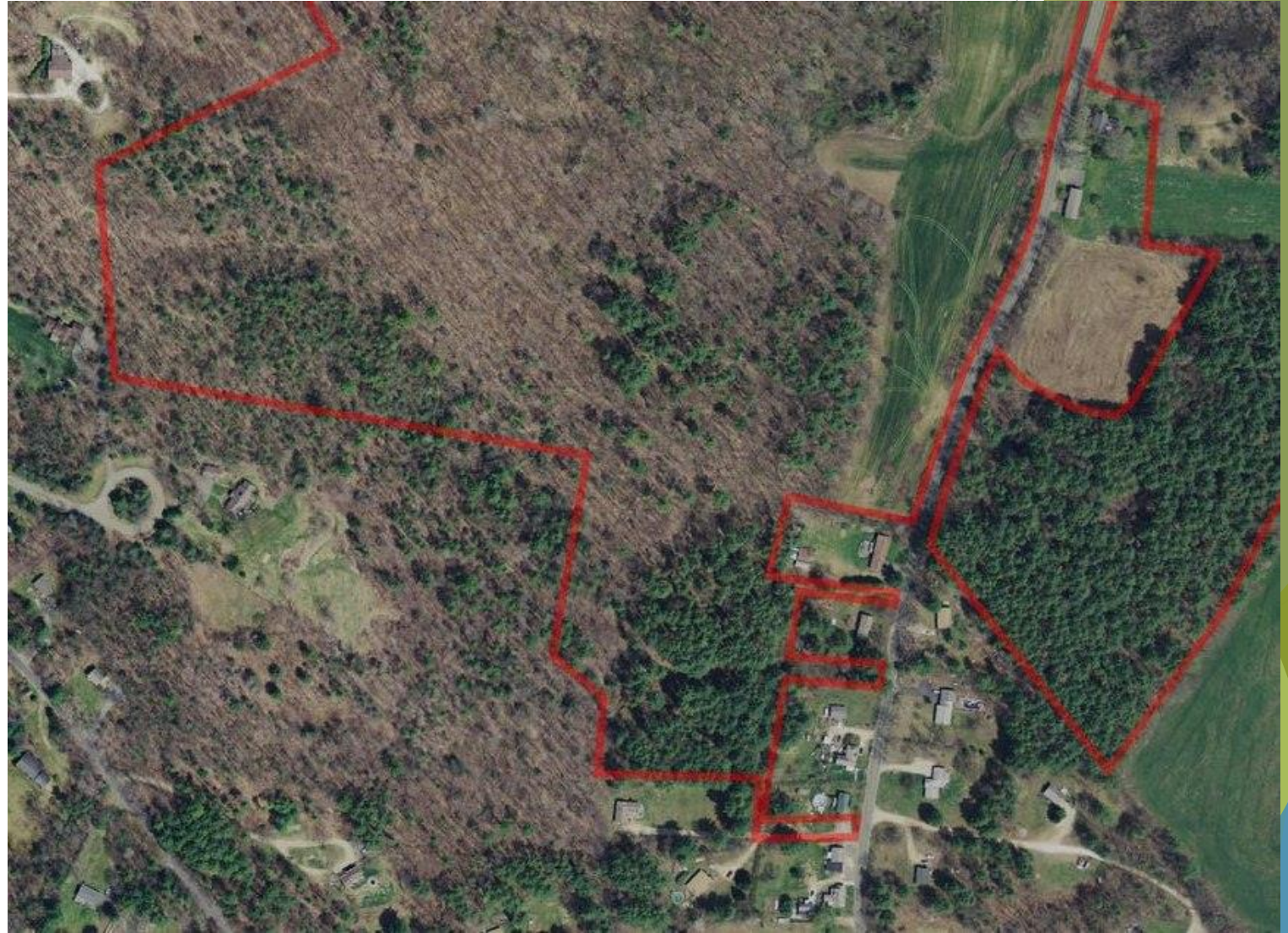
► Dream CR!!!



► Dream?



▶ nightmare



Monitoring your CR

- ▶ Documenting
 - ▶ Man-made and natural changes
 - ▶ Photograph any change
 - ▶ Consider items for scale (notebook, person)
 - ▶ GPS
 - ▶ Notes
 - ▶ Aspect
 - ▶ Date
 - ▶ Description of site
 - ▶ Duration of time on-site

Monitoring your CR

- ▶ Completing the visit
 - ▶ Say goodbye
 - ▶ Do not discuss “violations” on-site
 - ▶ Do not say “violation”
 - ▶ Cite LT policy if necessary
 - ▶ Ask questions to round-out the picture



**Berkshire Natural Resources Council
Monitoring Form**

Property: [222 CR Club Grounds] Date: [10/2/15] Hours: [3]

Owner, address, phone number:

[See file for contact info: Andrew Crowell, James Crowell, Walter Crowell, Bobbie Hallig, Marcia Inscore, Colin Moran, Sheila Moran, Wendy Sanchez.]	<input type="checkbox"/>	<input type="checkbox"/>
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How was owner notified of visit? [Email] Did owner accompany you? [No]

Travel and parking directions: [Rt. 7 South to Great Barrington, Rt. 23 east toward Egremont, in Egremont turn left on Rt. 41 south. Next right on Mount Washington Road. Continue as Mount Washington Road becomes East Road. Turn right on Cross Road, right on West Road. Common driveway is on the left. Next fork: left to Hallig, right to Crowell et al.]

Describe route or sketch on accompanying map; describe boundary features, including stone bounds, flagging, pipes, stone walls, fences, or boundary trees: [I parked near the boundary. I walked on the woods road to the northern boundary of the property. I then walked several of the woods roads in the southern portion of the property.]

Describe any changes in the property from the last monitoring visit: [None noted]

Describe any changes on abutting properties which might affect this property: [None noted]

Describe any possible violations of the CR: [None noted]

Describe the exercise of any reserved rights: [None noted]

Features, including habitat types, flora, fauna, that document the natural history of the property:
[]

Other comments: []

Monitor: [Michael Leavitt] Signature: []

Monitoring your CR

- ▶ Follow-up
 - ▶ Complete report
 - ▶ Discuss issues with colleagues
 - ▶ File reports
 - ▶ Office, digital, off-site
 - ▶ Send report to landowner with cover letter
 - ▶ Send report even if there are no issues to discuss
 - ▶ Call landowner before mailing if there is anything controversial

Overview

- ▶ Summarize Group Activity
- ▶ Discuss Violation Policies and Guidelines
- ▶ Break Out Groups with Prompts
- ▶ Re-Convene and discuss
- ▶ Group examples with pictures
- ▶ Discuss Amendment Policy?

Resolving Violations

Try to cooperate, while upholding conservation values



Objectives and Guidelines for Violations: *Education, Mediation, Remediation, Mitigation Payments, Injunctions, Litigation, and Criminal Charges*

- ▶ Maintain conservation purposes, public confidence, and tax status
- ▶ Maintain constructive working relationships with landowners, if possible
- ▶ Always seek others input, including legal experts
- ▶ Be as flexible as the situation warrants: balance harm of violation with cost and benefit of enforcement
- ▶ Use Diplomacy first
- ▶ Use litigation as a LAST RESORT
- ▶ Maintain consistent responses
- ▶ Focus on listening and gathering information- on-site
- ▶ Case-by-Case basis

Steps to Take in Event of Possible Violation:

- ▶ Monitor & Document
- ▶ Review the Easement Terms
- ▶ Document the Violation (Photos, Report, etc.)
- ▶ **Determine Outcome**
- ▶ Contact the Landowner and Document conversation & compliance process
- ▶ Do not provide landowner with on-the-spot determination
- ▶ If landowner agrees to restore, follow up on agreed terms
- ▶ If landowner refuses, consult with Board and attorney

Determine Outcome Part 1:

- ▶ In general: Remedy scale
 - ▶ Before the fact/reversible; requires review and analysis
 - ▶ On-going; requires cease/desist order and restore order
 - ▶ After the fact/irreversible; requires compensation and/or restoration
- ▶ Prioritize “Damage”: minor or serious
 - ▶ Minor- brush dumping or litter- maybe waive enforcement provided education
 - ▶ Moderate- minimal gravel excavation for use on-site- temporary approval
 - ▶ Major- filling a wetland or building structure- remediation and payment of damages

Determine Outcome: More Food for Thought

- ▶ Title at risk (e.g. structural encroachment)? Risk of adverse possession?
- ▶ Violation pre-date acquisition? Can you prove it?
- ▶ Third-party?
- ▶ Baseline documentation?
- ▶ Be realistic of resources
- ▶ Can negotiate with landowner; do not cause undue burden, but uphold intent of donor
- ▶ Case-by-Case

Group Activity

- ▶ 7 Groups
- ▶ 5-8 people each
- ▶ Discuss Violation prompts and come up with solutions
- ▶ Keep in mind violation policy guidelines

Group Break Out: See Prompts

Discuss & Vote Outcome: if a, then b

- ▶ If dumping, send a general letter, tell police, and/or just remove
- ▶ If structures, retain surveying services, and possibly an attorney (Amendment?)
- ▶ If cleared lawn, let grow or maybe require a revegetation plan

Town-owned CR Violations

- ▶ Consult with Conservation Administrator



CR: Privately-owned

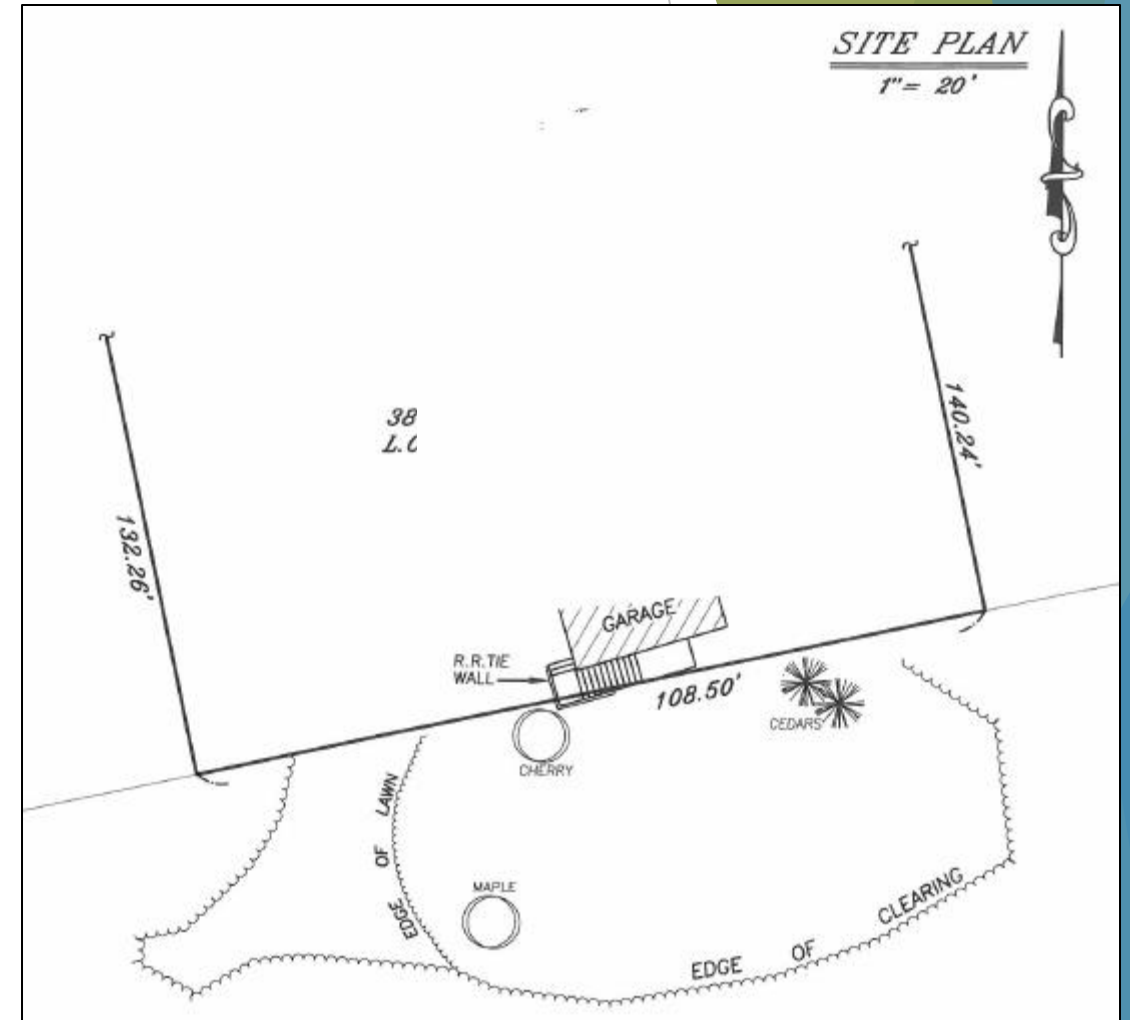
- Reserved Rights?
- Full-time resident?
- Donor?



CR Violation: Fence & Clearing



CR Violation: Lawn & Structure



Preventing Future Violations

- ▶ For CRs, ANNUAL CONTACT IS A MUST.
 - ▶ Letter, phone call, email and hopefully on-site
- ▶ Make sure landowner understands CR language & your interpretation
- ▶ Build a Relationship: easement is perpetual
 - ▶ Discuss habitat value, send newsletters, ask to volunteer, etc.
- ▶ Regular Monitoring and reporting
- ▶ Stay informed to land sales
- ▶ Stewardship and Legal Defense Fund

Resources

- ▶ Monitoring/ Stewardship Information:

- ▶ The Massachusetts CR handbook:

- <http://www.massaudubon.org/content/download/10374/166588/file/CRManualFinal.pdf>

- ▶ MEDS Model CR Amendment Guidelines: <http://www.massland.org/library/meds-model-cr-amendment-guidelines-0>

- ▶ Easement Guidebook: http://www.osiny.org/site/DocServer/Easement_Guidebook-OSI-RevFinal_02_24.pdf?docID=12421

- ▶ Software for Stewardship/ Data Collection:

- ▶ [Lynda.com](http://www.lynda.com) (Training for Access and other software)

- ▶ ArcGIS (Online): <http://www.arcgis.com/features/>

- ▶ Google Earth Pro: <http://www.google.com/earth/explore/products/desktop.html>

- ▶ Mass GIS (OLIVER): http://maps.massgis.state.ma.us/map_ol/oliver.php

- ▶ Plat Plotter: <http://platplotter.appspot.com/>