

**Land Management Committee
Executive Summary - Article 17: Amendments to
Conservation Restrictions in McLean Memorandum of Agreement**

What Your Vote Means

A vote of yes will completely replace the current Conservation Restrictions with the proposed new ones. A vote of no will nullify the proposed amendments and revert to the current Conservation Restrictions as accepted by the November 22, 1999 Memorandum of Agreement (MOA) between the Town and McLean Hospital. Article 17 was unanimously requested by the McLean Land Management Committee (LMC), the entity created through the 1999 Memorandum of Agreement, the Town and McLean each represented by four members.

Why Amendments Are Recommended

The need to update and revise the two documents is necessary for several reasons. As the Land Management Committee has been preparing for the conveyance of all of the McLean open space to the Town, it has become apparent that changes are required to properly reflect the Committee's acquired land management knowledge gained over the period since the original agreements were approved by Town Meeting. The current Conservation Restriction (CR) documents are also considered incomplete, and not enforceable in some limited aspects, by The Trustees Of Reservations (TTOR), the conservation agency the Town and McLean intend to "hold" the Restrictions. The LMC has worked cooperatively with TTOR to carefully revise the documents so the Conservation Restrictions (CR) will accurately reflect the conservation intentions of the Town. The changes will be effective in perpetuity, and will enable the LMC to appropriately act as stewards for this unique property.

Action Required Of Town Meeting

This motion requires a simple yes or no vote. There are no amendments permitted from the floor of Town Meeting because all of the three parties to the agreement, The Trustees of Reservations, McLean Hospital Corporation (and their three developers) and the Town of Belmont (so far, through the Land Management Committee) have accepted the documents only in the proposed form. Any new changes to the Conservation Restrictions would nullify these individual acceptances and would require another round of negotiations amongst all the entities. The Massachusetts Executive Office of Environmental Affairs is currently reviewing the finished documents. The amendments to both Conservation Restrictions, Attachments B1 and B2 to the McLean Memorandum of Agreement (MOA), will be made by a single vote on this one article due to the complex fit of these documents into the overall Memorandum of Agreement and the necessity of having consistent land policies for the entire parcel.

Timing

There are two important milestones to consider: 1) Any amendments to the Conservation Restrictions must be approved by a majority vote of Town Meeting and 2) The revised CRs must be in place prior to transfer of the land to the Town, a date all hope is soon approaching. The LMC therefore considers it critical to amend the Conservation Restrictions at this Annual Town Meeting. Article 17 was placed on the Warrant for this purpose.

Process

The McLean Land Management Committee (LMC) consists of 8 members, half representing the Town and half from McLean and receives staff support from the Town's Senior Planner, Tim Higgins. The Committee has been meeting since July of 2000. Over the last eight months, the Land Management Committee has worked on revisions to the two Conservation Restrictions. Specifically, the LMC proposes to modify both Attachment B1, the open space Conservation Restriction (CR) and Attachment B2, the Conservation Restriction (CR) for the inactive cemetery land.

The Committee has worked extensively with interested citizens, users of the McLean property, The Trustees Of Reservations, abutters, bicycle advocates, the Belmont Day School and others to develop a consensus on the required revisions. Through this public process, many thoughtful comments have been contributed and the documents have been further refined. Copies of the documents have been available on the Town's web site, at the Library, at the Town Clerk and the Community Development offices at each stage of the process.

Substantial Changes

A guiding principle of the Committee's work has been to recommend and evaluate revisions that fulfill the intent of the CRs while providing flexibility to the future manager of the land. The major changes occur in four areas, shown below. There are also minor language amendments, which are necessary due the age of the documents and changes in legal requirements since their creation. The significant amendments are follow:

1) Bicycle use:

- Original CR - Prohibited bicycle use on the property
- Revised CR - Permits the LMC, McLean and TTOR to allow bicycles only on trails all three entities may accept and so designate on a trail plan. Also requires the plan to consider appropriate buffer zones with residential abutters. Permits the prohibition of bicycles should conservation values of property be compromised. This position was attained after a great deal of debate and extensive public involvement.

2) Telecommunications Tower:

- Original CR - Prohibited commercial uses of property
- Revised CR - Removes the restriction only on the telecommunications tower. Permits commercial telecommunications users to co-locate with the Town's public safety entities on a new telecommunications tower, should that be desired by the Town. The following conditions apply:
 - Public use-only tower* - LMC must review and comment on possible impacts to conservation values
 - Commercial-use on public tower* - LMC must review, comment and approve prior to any Site Plan Approval (required). Should the LMC be asked to approve a commercial tower venture, a significant portion of the revenue stream from the commercial use must be dedicated to maintenance of the open space. It is the LMC's position that specific commercial activity on the tower will only be approved by the LMC if this funding commitment is made. A statement of this intention is included in the CR but we cannot bind the actions of a future Town Meeting regarding appropriation of the funds.

3) Define Utilities and Permitted Activities

Original CR - Language is vague about "public utilities", specifically what they are and where they can be placed.

Amended CR - Text clearly defines "utilities" and where they can be located for all land covered by the CRs; includes exhibits showing current and new utilities as detailed in Design and Site Plan Approvals granted by the Belmont Planning Board 12/03/02 and the Belmont Day School drainage system under the "Claflin" soccer field.

4.) Future Actions/Discretion

Current CR - No discretion for the LMC, the Management Agent or TTOR without formal amendments.

Amended CR - Limited discretion of the LMC, with approval of TTOR and McLean. One example allows maintenance, relocation or closure of trails, activities not permitted under the current CR. Also, specific language clearly articulates the intentionally burdensome process by which the CRs may be amended in the future.

Additional Approvals Required

Procedurally, the amendments require approval by Belmont Town Meeting, the McLean Hospital Board of Trustees, The Trustees of Reservations (TTOR) and the Executive Office of Environmental Affairs (EOEA). Each entity must approve before the changes become effective. The Belmont Day School and the three McLean developers will also be required to accept these amendments. It is expected that McLean Hospital will vote prior to the Town Meeting while TTOR and EOEA will officially receive the amendments after Town Meeting acts (presuming approval). All parties are aware of the details of the amendments and are expected to grant approval.

Land Management Committee:

Town Members:

Ellen O'Brien Cushman, Chairman
Lauren Meier
Richard Pichette
Ruth Foster

McLean Hospital Members:

Stephen Kidder
Michele Gougeon
Andrew Healy
Frank Keefe

Staff: Senior Planner, Timothy Higgins

May 09, 2002